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INTRODUCTION

1. The present report is submitted to the General Assembly in response to its resolution 48/28 of 9 December 1993, in which the Secretary-General was requested to report on developments pertaining to the United Nations Convention on the Law of the Sea and all related activities as well as on the implementation of that resolution. Two other reports which are also relevant to the subject have been submitted to the Assembly at the current session: a report on "Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas" (A/49/469), prepared in accordance with General Assembly decision 48/445 of 21 December 1993, and a report on the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks (A/49/522), prepared pursuant to General Assembly resolution 48/194 of 21 December 1993.

2. The United Nations Convention on the Law of the Sea enters a new phase with its coming into force on 16 November 1994. On the same date, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, adopted by the General Assembly on 28 July 1994 (resolution 48/263, annex), also starts to be applied on a provisional basis.

3. These developments entail a series of new activities on the part of the Secretary-General in the coming months and years (see para. 16 below). At this important juncture in the historic treaty-making process, the Secretary-General stands ready to extend, using all resources at his disposal, whatever assistance Governments may need in accepting and implementing the Convention.

4. With its entry into force and with new prospects for its universal acceptance, the Convention is attracting renewed and widespread interest among Governments, intergovernmental and non-governmental organizations, as well as in academic circles. A great number of activities have ensured, many of which were initiated in the early 1990s in conjunction with the United Nations Conference on Environment and Development (UNCED), and which can be alluded to only briefly in this overview report.

5. The Convention on the Law of the Sea is being increasingly recognized as providing the mechanism for addressing all ocean-related issues and the actual foundation upon which international cooperation can be built. At the same time it defines the terms of that cooperation and serves to enhance coordination and promote coherence of action. As the Secretary-General pointed out in his report on an agenda for development, "the Convention provides a universal legal framework for rationally managing marine resources and an agreed set of principles to guide consideration of the numerous issues and challenges that will continue to arise. From navigation and overflights to resource exploration and exploitation, conservation and pollution and fishing and shipping, the Convention provides a focal point for international deliberation and for action". 1/

6. The present report consists of two parts. The major portion of Part One is devoted to recent developments and trends in the fields of law of the sea and

related ocean affairs. Part Two describes the principal activities undertaken by the Secretary-General, with the substantive day-to-day work being performed by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs.

PART ONE

DEVELOPMENTS RELATING TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

I. ENTRY INTO FORCE OF THE CONVENTION

7. The United Nations Convention on the Law of the Sea entered into force on 16 November 1994, in accordance with article 308 (1). By that date, 68 States had established their consent to be bound by the Convention. 2/

8. Before its entry into force, the General Assembly adopted on 28 July 1994 a separate Agreement relating to the implementation of Part XI and related annexes to the Convention.

A. Agreement relating to the implementation of Part XI of the Convention

9. Subsequent to last year's report on the Secretary-General's informal consultations on the outstanding issues (A/48/527, paras. 8-15), four further rounds, conducted between November 1993 and June 1994, culminated successfully in the preparation of a draft Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. The draft Agreement was annexed to a draft resolution of the General Assembly, which also had been prepared during the consultations. 3/ The Secretary-General reported on the entire process of his consultations to the General Assembly (A/48/950, paras. 1-28), with the conclusion:

> "28. I wish to recall that the objective of the consultations, was to achieve wider participation in the Convention from the major industrialized States in order to reach the goal of universality. Accordingly, it is with satisfaction that I report to the General Assembly that these consultations, initiated by my predecessor and continued by me, have led to a result which in my view could form the basis of a general agreement on the issues that were the subject of the consultations. In the light of the outcome, I consider that I have fulfilled my mandate."

10. In accordance with the understanding reached at the final round of consultations, a resumed forty-eighth session of the General Assembly was convened on 27 and 28 July 1994 for the adoption of the resolution. On 28 July, General Assembly resolution 48/263 was adopted by 121 votes in favour and none against, with 7 abstentions. 4/ Upon its adoption, the President of the General Assembly read out the Informal Understanding reached at the consultations regarding the representation in the Council of the International Seabed Authority. 5/

11. On 29 July, the Agreement was opened for signature and on that date 41 States and the European Community signed the Agreement. By 16 November, 28 more States had signed the Agreement. 6/

12. The Agreement will remain open for signature until 28 July 1995. It will enter into force 30 days after the date on which 40 States have established their consent to be bound, provided that such States include at least 7 of the States referred to in paragraph 1 (a) of resolution II of the Third United Nations Conference on the Law of the Sea and that at least 5 of those States are developed States.

13. The former Yugoslav Republic of Macedonia deposited, on 19 August 1994, its instrument of succession to Yugoslavia with respect to the Convention. Mauritius, having ratified the Convention on 4 November, has also become a contracting State of the Agreement. In accordance with article 4 (1) of the Agreement which provides that any instrument of ratification shall also represent consent to be bound by the Agreement, the former Yugoslav Republic of Macedonia has become the first contracting State of the Agreement.

14. "Subsequently, Australia and Germany have deposited their instruments of ratification of the Agreement, and Belize and Kenya have expressed their consent to be bound by it through definitive signature."

15. "The Agreement entered into force provisionally on 16 November 1994 in accordance with article 7 and paragraph 12 of section 1 of the annex. Among the 68 States and the European Community which signed the Agreement by 16 November, the following nine notified the Secretary-General that they would not apply the Agreement provisionally: Brazil and Uruguay, which are States Parties to the Convention, Denmark, Ireland, Morocco, Poland, Portugal, Spain and Sweden. Mexico, which is a State Party to the Convention, Jordan, Romania and Slovakia, all of which had consented to the adoption of the Agreement, notified the Secretary-General that they would not apply the Agreement provisionally until further notice."

B. Main actions to be taken by the Secretary-General

16. The entry into force of the Convention triggers a series of actions to be undertaken immediately or in the near future by the Secretary-General, which are mandated by the Convention, resolutions of the General Assembly or decisions of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. These include:

(a) Convening of the first session of the Assembly of the International Seabed Authority. The first part of the session is scheduled from 16 to 18 November 1994, 7/ the second from 27 February to 17 March 1995, and the third from 7 to 18 August 1995. All meetings are to be held at the seat of the Authority in Jamaica;

(b) Convening of an ad hoc meeting of States Parties to the Convention on 21 and 22 November 1994 to discuss the organization of the Tribunal;

(c) Convening of the meeting of States Parties to elect the members of the Tribunal (the date will be decided by the ad hoc meeting);

(d) Convening of the meeting of States Parties before 16 May 1996 to elect the members of the Commission on the Limits of the Continental Shelf;

(e) Preparation for servicing the Commission on the Limits of the Continental Shelf, in cooperation with the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Hydrographic Organization (IHO) in support of the technical aspects of the work of the Commission;

(f) Development of a system for receiving and circulating communications relating to the Convention submitted to the Secretary-General by States and international organizations;

(g) Institution of systematic consultations with States and relevant international organizations to identify and examine issues of a general nature that have arisen with respect to the Convention;

(h) Arrangements for collecting, assessing and analysing information, inter alia, in order to respond to requests, particularly from States and international organizations, on the implementation of the Convention;

(i) Systematic reporting, including preparation of the annual report on developments relating to the Convention for submission to the General Assembly, as well as to States Parties, the International Seabed Authority and competent international organizations, in accordance with article 319 (2) (a) of the Convention;

(j) Introduction of a system for receiving and publicizing charts and lists of geographic coordinates defining the baselines and maritime limits which coastal States are required to deposit with the Secretary-General;

(k) Preparation for administering and supporting the conciliation and arbitration procedures for settlement of disputes under annexes V, VII and VIII of the Convention.

C. Impact on relevant international organizations

17. While the entry into force of the Convention would likely have a wide impact on the international community at large, it would have particularly far-reaching implications for international organizations involved in marine affairs, since the Convention contains numerous references to competent international organizations and the specific functions and tasks to be performed. With the exception of a few cases, however, such competent organizations have never been formally identified in a systematic manner, thus causing possible ambiguities regarding their identity and in some cases overlapping of their respective mandates. Aware of this situation, the Secretariat took measures aimed at facilitating their assumption of the specific functions assigned by the Convention.

18. First, on 14 December 1993, the Secretary-General sent a letter to the agencies and bodies within the United Nations system with responsibilities in ocean affairs, inviting them to contemplate further actions to be taken as a consequence of the entry into force of the Convention in 1994. Among the organizations which reaffirmed their roles in implementing the provisions of the Convention, the International Maritime Organization (IMO), IOC and the United Nations Environment Programme (UNEP) gave relevant information in respect of their mandates and activities related to marine affairs.

19. IMO recalled that, at the request of the IMO Assembly at its thirteenth regular session, in 1983, it undertook a study 8/ on the implications of the Convention for IMO and its conventions in order to determine the "scope and areas of appropriate IMO assistance to member States and other agencies in respect of the provisions of the Convention on the Law of the Sea dealing with matters within the competence of IMO". The examination was also to enable IMO "to develop suitable and necessary collaboration with the Secretary-General of the United Nations on the provision of information, advice and assistance to developing countries on the law of the sea matters within the competence of IMO". IMO believed that the study could form an excellent basis for the assessment of matters falling under its competence. IMO has started the preparatory work for its updating in the light of new developments and the entry into force of the Convention.

20. IOC indicated that, since it had been recognized as a competent international organization in marine scientific affairs under the Convention, it would assume responsibilities for the promotion of marine scientific research, the creation of favourable conditions for the conduct of marine scientific research, publication and dissemination of marine science information and knowledge, the coordination of international marine scientific research projects, the provision of basic scientific information on the protection of the marine environment and the transfer of marine technology.

21. At its twenty-seventh session, held from 5 to 13 July 1994, the IOC Executive Council considered an item, entitled "IOC in relation to the United Nations Convention on the Law of the Sea", taking into account its imminent entry into force. The Executive Council realized the urgency of the tasks entrusted to IOC by the Convention and gave its full support to the IOC secretariat to take immediate actions to fulfil its short-term responsibilities. It also decided to establish an Ad Hoc Inter-sessional Working Group on IOC Responsibilities and Actions in relation to the Convention to identify and recommend actions to be taken by IOC. The Executive Council further stressed the importance of cooperating with other international organizations, including the Division for Ocean Affairs and the Law of the Sea, IHO, IMO and the International Seabed Authority in discharging its responsibilities under the Convention.

22. UNEP drew attention to the fact that over the last two decades its Regional Seas Programme had successfully promoted regional and subregional cooperation in the field of protection of the marine environment. Through its action plans and joint programmes, it had established firm cooperation between coastal States in the various regional seas areas.

23. Secondly, on 20 May 1994, the Division for Ocean Affairs and the Law of the Sea circulated for comments to all relevant international organizations a tentative table listing thematically the subjects contained in the Convention with the suggested international organization or organizations which were considered to be competent or relevant with respect to the questions involved in the light of their mandates, status and regular activities. The table, now being finalized taking into account the comments received, will be made available to Member States and international organizations upon publication.

II. STATE PRACTICE

A. Claims to maritime zones

24. According to information obtained by the Secretary-General as at 16 November 1994, the outer limits of the claims by 145 coastal States to the various maritime zones, measured from the baselines, are as shown in the table below:

	Number of States	
(a) Territorial sea		
12 miles 9/	117	
Less than 12 miles	11	
More than 12 miles	16	(11 - 200 miles 5 - 20-50 miles)
Claim in a rectangular shape	1	
(b) Contiguous zone		
24 miles	46	
Less than 24 miles	8	
More than 24 miles	1	
(c) Exclusive economic zone		
200 miles	85	
Up to a line of delimitation, to limits determined by coordinates or without limits	8	
(15 States claim a fishery zone of 200 miles and 4 States claim one of less than 200 miles)		

(d) Continental shelf	Number of States
200-metre isobath plus exploitability criterion	41
Outer edge of continental margin, or 200 miles	23
200 miles	7
Others	13

In addition, 16 States have claimed archipelagic State status, although not all have specified archipelagic baselines.

B. National legislation

25. The trend in State practice, noted in previous annual reports, that States continued to adopt or modify their legislation in accordance with the provisions of the Convention, has slowed down during this reporting year.

26. By the time of entry into force of the Convention, however, the claims of States to maritime zones have already demonstrated the important impact of the Convention on their legislative activity. To sum up the current situation:

(a) Out of 151 coastal States tabulated for this report, at least 145 have enacted legislation relating to maritime limits (some of the newly created States have not yet adopted relevant legislation);

(b) One hundred twenty-eight (128) States have established the breadth of their territorial seas at 12 miles or less. Only 16 States, out of which 6 (Angola, Cameroon, Nigeria, Somalia, Togo and Uruguay) are contracting States of the Convention, have made claims not in accordance with the limits established by the Convention;

(c) Ninety-two (92) States have established an exclusive economic zone. The latest claim is that of Australia, which on 1 August 1994 converted its 200-mile fishery zone into an exclusive economic zone;

(d) Fifteen (15) States claim a fishery zone of 200 miles: four in Asia (Japan, Nauru, Palau 10/ and Papua New Guinea); three in Africa (Angola, Gambia and South Africa); five in Europe (Denmark, Germany, Ireland, Netherlands and the United Kingdom); one in North America (Canada); and two in Latin America and the Caribbean (Bahamas and Guyana);

(e) Three others claim fishing zones of less than 200 miles (Finland: 12 miles; Malta: 25 miles; and Algeria: a combination of 32 and 52 miles), while the claim of Belgium extends to the median line with its neighbouring States.

27. It should be noted, however, that 11 States in Africa (Benin, Congo, Liberia, Sierra Leone and Somalia) and Latin America and the Caribbean (Ecuador,

El Salvador, Nicaragua, Panama, Peru and Uruguay) still claim a territorial sea of 200 miles.

28. Algeria has recently adopted an act regulating fishing in areas under its national jurisdiction. 11/ One of the main features of the act, which establishes an exclusive fishing zone beyond the territorial sea, is the introduction of two different outer limits: 32 miles from the west maritime boundary up to Ras Ténès and 52 miles from that point up to the east maritime boundary. This legislation contains a special chapter dealing with violations committed by foreign vessels when fishing in the reserved fishing area without authorization. The enforcement mechanisms established in the act comprise, inter alia, the boarding of vessels and the institution of judicial proceedings.

29. Algeria, together with Malta, which established a fishing zone of 25 miles in 1978, and Egypt, which claims an exclusive economic zone without setting limits, are the only States in the Mediterranean Sea that have made claims beyond the territorial sea and the contiguous zone.

30. Most of those States which have claimed neither fishery zones nor exclusive economic zones are to be found in semi-enclosed seas, particularly the Mediterranean Sea, the Red Sea and the Persian Gulf. It is interesting to note, however, that in one such sea, i.e., the Caribbean, all the riparian States including, island States, except Nicaragua and Panama, have claimed 200-mile exclusive economic zones.

31. It is worth recalling that about half of the legislation adopted by the coastal States under consideration was enacted between 1974 and 1978, at a time when all the compromises had not been finalized at the Third United Nations Conference on the Law of the Sea. Such legislation was therefore not always in conformity with the terms of the Convention.

32. One such legislation was that of Cape Verde, adopted in 1977, which declared itself an archipelagic State and established baselines, some of which were not in conformity with the Convention. Cape Verde adopted a new law on 10 December 1992, 12/ taking into account the protests formulated by some States. That law describes the different zones in which Cape Verde exercises sovereignty or jurisdiction, but defines its jurisdiction with regard to the protection of the marine environment and marine scientific research in the exclusive economic zone as "exclusive", whereas the Convention characterizes it simply as "jurisdiction". Moreover, the law attributes to Cape Verde all the residual rights in the exclusive economic zone as well as the right to control all archaeological objects found in the zone and on the continental shelf.

C. Other developments

33. At the Eleventh Ministerial Conference of the Movement of Non-Aligned Countries (Cairo, 31 May-3 June 1994), the Ministers noted the imminent entry into force of the Convention, reiterated the importance of the Convention to the aspirations of its member countries and stressed the need for its universal acceptance through early ratification or accession. 13/

34. At the fifteenth meeting of the Conference of Heads of Government of the Caribbean Community (CARICOM) (Bridgetown, Barbados, 4-7 July 1994), the Heads of Government agreed that CARICOM member States would make every effort to sign and ratify the Agreement relating to the implementation of Part XI of the Convention as soon as it was adopted and opened for signature and ratification. 14/

35. In a declaration adopted on 29 September 1994 in New York, the Ministers for Foreign Affairs of the States members of the Organization of African Unity (OAU) welcomed the entry into force of the Convention and appealed to States to sign and ratify the Agreement relating to the implementation of Part XI of the Convention. 15/

III. SETTLEMENT OF DISPUTES

A. Impact of the entry into force of the Convention

36. The entry into force of the Convention brings into operation its elaborate system of dispute settlement, including notably the compulsory procedures entailing binding decisions. The provisions relating to dispute settlement, contained in more than 100 articles of the Convention and its annexes, represent a major epoch-making achievement in international codification efforts.

37. The central institution to be established for dispute settlement is the International Tribunal for the Law of the Sea. The Tribunal is to be established within six months of the entry into force of the Convention. However, it is expected that the ad hoc meeting of the States Parties, to be convened from 21 to 22 November 1994, will consider the possibility of a deferment of the first election of members of the Tribunal (see para. 211 below).

38. The arbitration procedure in annex VII and the conciliation procedure in annex V of the Convention require the Secretary-General to draw up and maintain lists of arbitrators and conciliators, with each State Party being entitled to nominate four members for each list. The Secretary-General will, on the entry into force of the Convention, call upon States Parties to submit their nominees and thereafter draw up the lists.

39. The other procedures established by the Convention are those of special arbitration to deal with disputes concerning the interpretation or application of its provisions relating to fisheries, protection and preservation of the marine environment, marine scientific research, and navigation, including pollution from vessels by dumping. On 20 May 1994, the United Nations Legal Counsel wrote to the Food and Agriculture Organization of the United Nations (FAO), UNEP, IOC and IMO, drawing their attention to article 2 of annex VIII of the Convention, which calls upon those organizations to draw up and maintain the list of experts in each of the above-mentioned fields, respectively.

40. In reply, IMO stated that it had invited member States to nominate experts as provided in the annex. Steps are being taken also by the IOC secretariat,

following the decision of the IOC Executive Council, to invite IOC member States to nominate experts.

41. It should be noted in this connection that only States Parties to the Convention are entitled to nominate experts in each field concerned "whose competence in the legal, scientific or technical aspects of such field is established and generally recognized and who enjoy the highest reputation for fairness and integrity" (annex VIII, art. 2 (3)).

B. Maritime delimitation disputes

1. Guinea-Bissau and Senegal

42. In a second application filed in the International Court of Justice on 12 March 1991 in the dispute with Senegal concerning the delimitation of maritime territories, Guinea-Bissau had asked the Court to adjudge what should be the line delimiting the whole of the maritime territories appertaining respectively to the two Parties (see A/46/724, paras. 29-30). The two Parties subsequently requested a postponement of the initial pleadings, pending the outcome of their direct negotiations on the question (see A/47/623, para. 26, and A/48/527, para. 31).

43. On 10 March 1994, the Agents of the Parties handed the President of the Court the text of an agreement entitled "Management and Cooperation Agreement between the Government of Guinea-Bissau and the Government of the Republic of Senegal", done at Dakar on 14 October 1993, and signed by the two Heads of State. The Agreement provides, inter alia, for the joint exploitation by the two Parties of a "maritime zone situated between the 268° and 220° azimuths drawn from Cape Roxo", and the establishment of an "International Agency for the exploitation of the zone". It will enter into force "upon conclusion of the agreement concerning the establishment and functioning of the International Agency and with the exchange of the instruments of ratification of both agreements by both States". 16/

2. Cameroon and Nigeria

44. On 29 March 1994, Cameroon filed in the Registry of the International Court of Justice an application instituting proceedings against Nigeria in a Case concerning the Land and Maritime Boundary between Cameroon and Nigeria and requesting the Court, inter alia, to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975. More precisely, Cameroon requested the Court to "prolong the course of its maritime boundary with Nigeria up to the limit of the maritime zones which international law places under their respective jurisdiction". As a basis for the jurisdiction of the Court, the Application referred to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accepted that jurisdiction as compulsory. The Court has fixed the time-limits for the submission of the Memorial of Cameroon at 16 March 1995, and the Counter-Memorial of Nigeria at 18 December 1995. 17/

3. Bahrain and Qatar

45. On 1 July 1994, the International Court of Justice delivered a judgment on jurisdiction and admissibility in the Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain. By 15 votes to 1, the Court found that Qatar and Bahrain had entered into international agreements by which they had undertaken to submit to the Court the whole of the dispute between them. It therefore decided to afford the Parties the opportunity to submit the whole of the dispute to the Court and fixed 30 November 1994 as the time-limit within which the Parties could, jointly or separately, take action to that end.

46. The dispute between Qatar and Bahrain is related to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States. After a mediation (good offices) attempted by the King of Saudi Arabia since 1976 had failed to lead to the desired outcome, Qatar instituted proceedings against Bahrain before the Court on 8 July 1991.

47. Qatar founded the jurisdiction of the Court upon two agreements between the Parties stated to have been concluded in December 1987 and December 1990, respectively. According to Qatar the two States had made express commitments to refer their disputes to the Court.

48. Bahrain, on the other hand, maintained that the minutes of the 1990 meeting of the Cooperation Council for the Arab States of the Gulf, which Qatar considered to be an agreement, did not constitute a legally binding instrument, and that the combined provisions of the minutes and of letters exchanged by each State with the King of Saudi Arabia accepting the jurisdiction of the Court did not enable Qatar to seize the Court unilaterally. Bahrain, therefore, contested the basis of jurisdiction invoked by Qatar and concluded that the Court lacked jurisdiction to deal with the application of Qatar. 18/

4. Iraq and Kuwait

49. On 21 May 1993, the Secretary-General submitted to the Security Council the final report on the demarcation of the international boundary between the Republic of Iraq and the State of Kuwait by the United Nations Iraq-Kuwait Boundary Demarcation Commission, 19/ which had been established pursuant to paragraph 3 of Security Council resolution 687 (1991) of 3 April 1991. The Commission's task was to demarcate the international boundary between the two States as set out in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the Restoration of Friendly Relations, Recognition and Related Matters" signed at Baghdad on 4 October 1963. 20/

50. With respect to the maritime aspect of the boundary, i.e., the offshore boundary from the junction of the Khowr Zhobeir and the Khowr Abd Allah to the eastern end of the Khowr Abd Allah, the Commission felt that the closing statement of the delimitation formula in the Agreed Minutes, mentioning the islands of Warbah, Bubiyan, etc., as appertaining to Kuwait, gave an indication that the existing frontier in that section lay in the Khowr Abd Allah and noted that all historical evidence pointed to the existence of a general agreement

between the two countries on a boundary in the Khowr Abd Allah. 21/ The Commission concluded that the existing boundary to be demarcated was the median line, it being understood that navigational access should be possible for both States to the various parts of their respective territory bordering the demarcated boundary. 22/

51. The Commission also concluded that the entrance to the Khowr Abd Allah from the open sea lay where there was a significant change in the direction of the coastlines of the two States and determined a precise point on the median line of that entrance. It also determined that the boundary connection from the generalized median line to the junction of the Khowrs was the shortest line between them. From that point the median line adopted by the Commission was defined by a set of coordinates which were calculated from the baseline points established on opposite low-water lines. At the eastern end of the island of Warbah, where a drying shoal that could be subject to major change over the years existed, two median lines were calculated, one taking the shoal into account and the other ignoring it. Equal weight was given to both lines and an average line was calculated between the two medians to decide the demarcation line. 23/

52. Following consideration of a note on the question of navigational access for both Parties prepared by the Office of Legal Affairs of the United Nations, the Commission adopted the following statement:

> "The Commission views navigational access for both States to the various parts of their respective territories bordering the demarcated boundary as of importance for ensuring an equitable character and for promoting stability and peace and security along the border. In this connection, it is the opinion of the Commission that such navigational access is possible for both States through the Khowr Zhobeir, the Khowr Shetana and the Khowr Abd Allah to and from all their own respective waters and territories bordering their boundary. The Commission notes that this right of navigation and access is provided for under the rules of international law as embodied in the 1982 United Nations Convention on the Law of the Sea ratified by both Iraq and Kuwait. Taking into consideration the particular circumstances of this area, it is also the view of the Commission that the right of access implies a non-suspendible right of navigation for both States." 24/

53. In a letter dated 7 June 1993 to the Secretary-General, Iraq expressed its opposition to the decisions of the Boundary Demarcation Commission in respect of the boundary in the "Khawr Abdullah" (Khowr Abd Allah) area, arguing, inter alia, that the Commission had no mandate to deal with that section of the boundary, that Iraq's historic rights and "special circumstances" in the Khowr prevented the application of the median line rule under the United Nations Convention on the Law of the Sea, and that the Security Council, which had endorsed the report of the Commission, had acted ultra vires since it had no right to impose a boundary delimitation on a Member State. 25/

54. The Security Council responded to the Iraqi letter stating that the Commission had acted on the basis of resolution 687 (1991) and the

Secretary-General's report on its implementation, both of which had been formally accepted by Iraq. 26/

C. Other developments

1. Disputes over the Spratly Islands

55. The question of sovereignty over the Spratly Islands and surrounding sea areas in the South China Sea has become a permanent source of tension among countries in the region. 27/ The latest development concerns the continental shelf area where China had granted a concession contract to Crestone Energy Corporation (of the United States of America) in May 1992 to undertake exploratory activity, and to which Viet Nam had protested as being the area falling within its continental shelf. In April 1994, Crestone announced that it would undertake seismic research in the concession area under Chinese protection. According to Vietnamese sources, a Chinese exploration vessel arrived in the area and attempted survey activities. Viet Nam protested immediately, repeating its claim to the area. The Chinese Foreign Ministry reportedly reiterated its "uncontrovertible sovereignty over the Spratly Islands and the surrounding sea areas". 28/ Earlier, in December 1993, Viet Nam had, itself, authorized Mobil Corporation to undertake exploration activities in a vicinity of the disputed area, where Mobil had drilled before it was forced to abandon its effort when the United States military and businesses left Viet Nam in 1975. 29/

2. Legal regime of the Caspian Sea

56. Although the Caspian Sea is a land-locked body of water, the emergence of three new coastal States, growing environmental problems, including dwindling sturgeon stocks, and rich seabed oil deposits have led the coastal States to focus on the legal regime of that sea. The Russian Federation holds the view that the norms of international maritime law do not apply to it and that all coastal States, including the former republics of the Union of Soviet Socialist Republics, are bound by the Soviet-Iranian agreements of 26 February 1921 and 25 March 1940. Alleging that "some Caspian Sea States are contemplating unilateral action and ... are seeking to obtain unilateral advantages, to the detriment of the rights and interests of other Caspian Sea States", the Russian Federation has called for the updating of the two agreements through the conclusion of new instruments among all Caspian Sea States. 30/

IV. UNCED FOLLOW-UP AND RELATED ISSUES

57. With the entry into force of the Convention, considerable new attention has now focused on the strengthening of international cooperation, including coordination of technical cooperation and assistance, not only with the objective of promoting acceptance and implementation of international law in the ocean sector, but also in general support of the implementation of Agenda 21. At the same time, particularly in connection with the debate on an agenda for development, there is strong emphasis on achieving a new level of integration

and operational competence in the work of the United Nations system, and close collaboration among the Bretton Woods institutions, the United Nations Development Programme (UNDP) and the specialized agencies.

58. Chapter 17 of Agenda 21 rests on the foundation provided by the Convention, as affirmed in its introduction and reiterated in numerous paragraphs throughout the chapter. Similarly, the Convention provides a universal legal framework for the agenda for development, as far as the marine sector is concerned (see para. 5 above). Indeed, given its "important contribution to the maintenance of peace, justice and progress for all peoples of the world" (preamble), the Convention is an indispensable common underpinning for the three "agendas" - "An Agenda for Peace", "An Agenda for Development" and Agenda 21.

59. It is of no surprise that States and international secretariats now tend to deal with the implementation of Agenda 21 together with that of the Convention. The States members of the zone of peace and cooperation of the South Atlantic, for example, adopted in September 1994 a Declaration on the Marine Environment on the basis of Agenda 21 and in conformity with the Convention on the Law of the Sea. 31/ The new IOC Action Plan also specifically recognizes that its two essential frameworks are provided by the Convention and Agenda 21. 32/

60. International organizations have mostly completed their reviews of the implications of Agenda 21 for work programmes and have instituted actions within their governing bodies to realign priorities, where needed, and to establish "internal" mechanisms for review and monitoring in relation to Agenda 21 and other legal and policy decisions affecting their member States. There is widespread recognition that this also entails review of the implications of the Convention and its entry into force. Specific actions taken or being taken by international organizations are described in various sections of the present report.

A. Intergovernmental conferences

61. Chapter 17 called for the convening of three intergovernmental conferences - on straddling fish stocks and highly migratory fish stocks (see A/49/469), on small island developing States and on the protection of the marine environment from land-based activities. Generally speaking, all three conferences have objectives synonymous with strengthening the implementation of the Convention and related instruments, and furthering international cooperation in ocean affairs at the global and regional levels.

1. Conference on small island developing States

62. The Global Conference on the Sustainable Development of Small Island Developing States was widely recognized as being an important test of the implementation of Agenda 21, with small island countries serving as potential pilot-scale examples of sustainable development. Although a programme area in chapter 17 had been devoted exclusively to small islands, it was early apparent that an effective programme of action would have to take account of Agenda 21 in its entirety. While the Programme of Action adopted by the Conference 33/

devotes a chapter to coastal and marine resources (chap. IV), important "marine" elements are also to be found in other substantive chapters dealing with climate change and sea level rise; natural and environmental disasters; management of wastes; tourism resources; biodiversity resources; and transport and communication. The Programme specifies the regional and subregional cooperation needed in all subject areas, and calls for national and international implementation.

63. The Programme of Action calls for the ratification of and/or adherence to regional and international conventions concerning protection of coastal and marine resources (para. 26.A.iv). It further states that the implementation of the Programme shall be consistent with a number of "parallel international processes important to the sustainable development of small island developing States that contain relevant provisions", including the Convention on the Law of the Sea (para. 67).

2. 1995 conference on protecting the marine environment from land-based activities

64. Two preparatory meetings have been held for the 1995 Conference on protection of the marine environment from land-based activities, with a third scheduled for March 1995. 34/ There have been substantive and procedural problems to resolve as concerns the priorities for the Conference: proposed revision of the 1985 Montreal Guidelines, the possible drafting of a new global convention on persistent organic pollutants reaching the marine environment, and the actual preparation of a programme of action on protection of the marine environment from land-based activities. 35/

65. The Programme is to be based on an initial statement of general principles, obligations and commitments, which are those set forth in the Convention on the Law of the Sea and Agenda 21. Preliminary discussion has pointed to the need to ensure that the Programme includes such components as financial guidelines for use by bilateral and multilateral development programmes and funding agencies; provision of a clearing-house function; requirements for national reporting; capacity-building and training; and guidance with respect to environmental control and management. Emphasis has also been placed on linkages between the Programme and the UNEP Regional Seas Programme, and the possible need for an intergovernmental mechanism to deal with critical issues and promote the setting of priorities.

66. The subject of degradation of the marine environment from land-based activities is complex. It embraces - or overlaps with - many other issues and concepts: atmospheric transport as well as river transport; conservation and management of shared resources (international watercourses); conservation and management of living marine resources; development of aquaculture; protection of marine biodiversity as well as endangered species and habitats; and special needs of small island States. Moreover, and as emphasized in chapter 17, actions taken to deal with land-based activities should be carried out in concert with those taken to implement "integrated management and sustainable development of coastal and marine areas, including exclusive economic zones" (para. 17.24). Indeed, no part of chapter 17 can be separated entirely from the

issue of land-based activities. Also important is the relationship with other components of Agenda 21, as well as with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention), the Framework Convention on Climate Change and the Convention on Biological Diversity.

B. Actions at the regional level

67. The regional commissions of the United Nations have already elaborated specific responses to chapter 17. For example, the Economic Commission for Latin America and the Caribbean (ECLAC) is focusing on the definition and consolidation of a strategy for the protection of marine biodiversity, mainly through the promotion of coastal area management in high biodiversity areas; and on the development of methodologies for making comprehensive evaluations of fisheries resources, with particular attention to the possible use of economic instruments to promote conservation and sustainable use.

68. The Economic Commission for Europe (ECE) now has a highly evolved response for the follow-up to Agenda 21, in the ECE Action Plan to Implement Agenda 21. 36/ The Action Plan is complemented by the 1993 Declaration on "Environment for Europe" adopted by the European Ministers for the Environment. Regional cooperation under the Declaration is aimed at the convergence of environmental policies and peace, stability and sustainable development in Europe. The Group of Senior Government Officials within ECE serves as the central coordinating body for the further development of this process. ECE also plays a key role in the multilateral implementation of the environmental activities of the Conference on Security and Cooperation in Europe (CSCE).

69. Beginning with the 8th Meeting of Parties to the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution, 37/ States have been reviewing tasks under the Mediterranean Action Plan in relation to chapter 17 of Agenda 21. At the same time, there is an active effort to formulate a "regional Agenda 21", essentially as a follow-up to the 1990 Nicosia Charter which established working relations among the European Union, the World Bank, the UNEP Mediterranean Action Plan and UNDP; the 1992 Cairo Declaration on Euro-Mediterranean Cooperation on the Environment in the Mediterranean Basin; and the 1993 Casablanca Conference. Mediterranean States are seeking to provide the institutional framework for effective Euro-Mediterranean cooperation, a financial mechanism that would guarantee the availability of funds and greater coordination among the Mediterranean Action Plan, the broader regional initiatives for sustainable development and relevant global conventions. 38/

70. In the Declaration on the Marine Environment (see para. 59 above) the South Atlantic States declared that they should, inter alia, exchange information and render mutual assistance on practical matters relating to the implementation of the Convention, in particular national legislation on such areas as development of skills and capabilities in the marine sector and the protection and preservation of the marine environment. The Declaration further sets forth a series of measures to be taken for the protection of the environment and the development of marine resources.

C. Conventions on climate change and biodiversity

71. Progress in implementing chapter 17 of Agenda 21 cannot be assessed fully without taking specific account of the interface with such other chapters as those dealing with freshwater, the atmosphere and biodiversity. Specific account therefore must be taken of the interface between Agenda 21 (and the Convention on the Law of the Sea) and the Conventions on climate change and biodiversity. Decisions have to be made as regards institutional arrangements for these two Conventions, taking into account the recommendations of chapter 38 of Agenda 21 and agreement in the Commission on Sustainable Development on the need for coordination and more efficient structural arrangements among the secretariats of all conventions related to sustainable development. 39/

72. The relationship between legal instruments on the marine environment and those two Conventions has also been raised in relation to the Global Environment Facility (GEF). It has been noted with considerable concern that GEF is providing very little funding to the marine sector, usually attributed to the demands of the Conventions on climate change, ozone depletion and biodiversity. There is growing emphasis on the necessity of integrating projects dealing with prevention of marine pollution with similar projects dealing with biodiversity and climate change, and according priority to projects which cover more than one of the four areas of GEF. There are also calls for GEF to be able to receive eligible proposals for inter-agency cooperative projects.

D. Commission on Sustainable Development

73. Certain issues have taken on yet greater importance in the course of debates in the Commission on Sustainable Development, including most prominently those concerning trade and economic issues. In marine affairs also, Governments have encountered concrete problems in reconciling conservation concerns and trade interests (see paras. 156-160 below). The interpretation of certain provisions of the Convention on the Law of the Sea can have relevance in these contexts. The possibility of environmentally motivated international agreements being used as a trade barrier or retaliatory tool has also been raised in connection with the expansion of port State control (see paras. 110-111 below).

V. PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

A. Concept of "degradation" of the marine environment

74. The Convention imposes a specific obligation to prevent, reduce and control marine pollution "from any source", including "land-based sources" which requires, inter alia, the establishment and periodic review of global and regional rules, standards and recommended practices and procedures. Chapter 17 of Agenda 21 introduces new terminology: "degradation" replaces "pollution", and land-based "activities" replaces "sources".

75. The definition of marine pollution (art. 1 of the Convention) is frequently interpreted restrictively as dealing with the release of harmful substances. 40/ The term "degradation" rather than "pollution" is used increasingly, inter alia,

to ensure comprehensiveness: it includes all deleterious effects resulting from anthropogenic modification of the physical, chemical or biological characteristics of the environment, 41/ as well as environmental impacts of technology, without restriction to effects associated with the introduction of substances or energy. It may be noted that definitions used in instruments on freshwater pollution are essentially the same as for the marine environment, so that arguments are also advanced for a generally applicable definition of pollution in support of a holistic or integrated approach to environmental protection.

76. The term is favoured by those who argue that control of harmful fishing practices and prevention of overfishing are part of the obligation to protect and preserve the marine environment. This change in the use of terms is further confirmed by UNEP decision 17/20 of 21 May 1993 and the anticipated product of the 1995 conference, namely, a programme of action for the protection of the marine environment from land-based activities.

B. Waste management and related issues

77. The need for comprehensive approaches to rational waste management is becoming more urgent, particularly as dictated by global bans on ocean dumping. Increasing restrictions in the transboundary movement of wastes also underlines the need to radically improve waste management practices. Parties to the Basel Convention agreed in March 1994 to ban exports from the countries of the Organisation for Economic Cooperation and Development (OECD) to non-OECD countries, and a growing number of regional agreements prohibit the importation of wastes into, and control movements within, the region concerned. Yet closer liaison and harmonization is clearly necessary among related global regimes, as well as between global and regional regimes. These regimes are found primarily in the London and Basel Conventions, in certain aspects of IMO conventions and instruments dealing with the transport of wastes (including radioactive wastes) and the disposal of ships' wastes, as well as in regional protocols on ocean dumping and on the transboundary movement of hazardous wastes. 42/

78. The need to promote coordination also extends to harmonization of approach on such matters as the classification of toxic or harmful substances. Harmonization is very important also because of the considerable economic and administrative difficulties for industry, including the shipping industry, in trying to comply with differing systems. Frequent reference is made to the work of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) in this connection, in view of its 20 years' experience in developing a hazard rationale and identifying marine pollutants, information which is then used for developing discharge and carriage requirements. IMO's Marine Environment Protection Committee has recommended that, in order to overcome any misconceptions as to the GESAMP methodology, appropriate clarifications be submitted to all meetings whenever harmonization of criteria for safe and environmental sound transport is discussed. 43/

1. The regime for ocean dumping

79. A more rigorous global regime for ocean dumping is now in effect; outright bans have been instituted following upon earlier phase-out programmes. The Parties to the London Convention have banned ocean disposal of industrial wastes, incineration at sea of industrial wastes and sewage sludge, as well as dumping into the sea of low-level radioactive wastes, and at the 16th Consultative Meeting in November 1993 amended the annexes to the Convention accordingly. 44/

80. The amendment on low-level radioactive wastes allows for a review of the situation after 25 years on the basis of a scientific study into the effects of radioactive substances on the marine environment. 45/

81. The Parties to the London Convention, assisted by the International Atomic Energy Agency (IAEA), keep under close review the situation concerning the disposal of radioactive wastes in the Barents and Kara seas and in the North-West Pacific. Following upon the request of the 16th Consultative Meeting, the Russian Federation has provided information on the handling of low-level liquid radioactive wastes from its nuclear-powered vessels. 46/ In the North Pacific, a Russo-Japanese Committee is working on an alternative disposal plan, which may involve the construction of a floating structure for at-sea disposal of the wastes.

82. The process of reviewing, updating and strengthening the London Convention is not yet complete. The Parties have agreed to an overall and thorough review of the existing provisions and further proposed amendments, to be completed for decision-making in 1996. An Amendment Group was created to prepare the necessary drafts. 47/

83. Several elements of the basic approach of the London Convention are still at issue. In particular, there is the important policy issue of whether or not to continue to amend the prohibition list or to replace the long-standing black list/grey list approach by a precautionary approach in the form of a "reverse list". It would mean imposing a general prohibition on disposal at sea (within the body of the Convention), allowing only the dumping of those wastes or materials specifically listed as exceptions (in an annex which would replace the present annexes I, II and III). The Scientific Group of the London Convention has emphasized that entries on a reverse list would need to be defined in unambiguous terms. The decision on a reverse list would have important implications throughout the whole field of environmental law.

2. The London Convention and the Convention on the Law of the Sea

84. Parties to the London Convention have taken a particular interest in the implications of the entry into force of the Convention on the Law of the Sea, both in respect of the current amendment activity and as concerns their future strategy for strengthening the global regime for waste disposal at sea and land-based alternatives. The 16th Consultative Meeting in 1993 called on the Division for Ocean Affairs and the Law of the Sea for the necessary information

and advice. 48/ In response, the Division submitted a paper in which it, inter alia, clarified the nature and extent of coastal and flag State jurisdiction over dumping beyond the territorial sea, and pointed out that in accordance with articles 210 and 216, Parties to the Convention on the Law of the Sea will now be legally bound to enact and enforce measures which must be no less effective than those taken under the London Convention. The difference in membership between the two Conventions adds further significance to this requirement. Considering that the dispute settlement procedures under the London Convention have not entered into force, 49/ the Division drew particular attention to the fact that States which are Parties to both Conventions will now have resort to compulsory dispute settlement to the extent that the dispute also involves interpretation and application of the Convention on the Law of the Sea. The possibility was also pointed out for Parties to the London Convention to use the International Tribunal for the Law of the Sea as their agreed mechanism for settling disputes. The Division had emphasized that the 17th Consultative Meeting would be the first global intergovernmental forum to consider directly the implications of the entry into force of the Convention, and would thus invite general attention in view of the possible precedents that might be set for the interpretation and application of basic provisions in all international conventions in the field of marine environmental protection. It also requested, in the light of article 319 (2) (a) and the need to ensure coordination among related convention secretariats, that the Parties give consideration in future to the establishment of procedures for submitting information and advice to the Secretary-General and for acting upon reports received.

85. Having considered the paper, the 17th Consultative Meeting, held from 3 to 7 October 1994, decided to circulate it to the Parties to the Convention on the Law of the Sea which are not Parties to the London Convention, drawing their attention particularly to the important legal effects of the former's entry into force on the latter, and inviting them to consider becoming Parties thereto.

86. Due note has been taken also that articles 202 and 203 on technical assistance and Parts XIII and XIV of the Convention on marine scientific research and marine technology hold considerable significance for legislative and strategic developments under the London Convention. 50/ The Consultative Meeting focused particularly on the fact that 41 States Parties to the Convention on the Law of the Sea were not party to the London Convention, agreeing that in the development of a technical assistance programme (see below) they should include the provision of advice and assistance to those States in order to enable them to implement the rules and standards required under the London Convention.

3. Technical assistance under the London Convention

87. The Global Waste Survey (see A/48/527, para. 76), conducted under the auspices of the London Convention, is scheduled for completion in 1995. Its final report will provide a comprehensive picture of the consequences in developing countries of the global ban on the dumping of industrial wastes. Its determination of needs will enable a practical plan of action to be drawn up for coordinating technical cooperation efforts on industrial waste disposal.

88. The Survey has identified certain key components of a technical cooperation programme, including the development of comprehensive waste management legislation implementing both the London and the Basel conventions.

89. Close attention has been paid to the institutional basis needed for a strong technical cooperation programme under the Convention, particularly to the need to establish a "clearing-house function". Emphasis is also on the need for advice on implementation to take account of the scientific and technical as well as legal aspects of the Convention and its supporting guidelines and assessment procedures.

C. Introduction of alien or new species

90. The issue of the introduction of alien or new species has many aspects, and increasingly involves more and more institutions with diverse interests, ranging from protection of biodiversity and habitat, conservation of fisheries, to the control of wastes in the form of ballast water discharge. Greater efforts are now being made to promote the necessary information exchange and coordinate work specifically in this area.

91. In the marine sector, the problem was first recognized as having global significance with the issue of ships' ballast water. The new IMO Guidelines for Preventing the Introduction of Unwanted Aquatic Organisms and Pathogens from Ships' Ballast Water and Sediment Discharges 51/ are understood to provide only a partial solution to the problem. They recommend ballast water exchange in the open ocean, but since this may create problems for vessel stability and structural integrity, the Maritime Safety Committee is considering whether to include technical advice on safety aspects.

92. The IMO Working Group responsible for pursuing work in this area has emphasized that the problems related to the accidental transfer of marine organisms by ships' ballast water was part of a larger question. An international scientific meeting has been strongly recommended, in order to bring together the various groups working within the framework of other international bodies to prepare guidelines or codes to reduce the risk of adverse effects arising from the introduction and transfer of marine species, and from the release of genetically modified organisms to the marine environment. 52/

D. Liability for marine environmental damage

93. It is now possible to discern the beginnings of a stronger overall regime relating to liability for damage involving the marine environment. In addition to the work in connection with the Basel Convention and the draft convention on harmful and noxious substances, there are negotiations at the regional level, e.g., to prepare appropriate procedures for determining liability under the Barcelona Convention and an annex to the Protocol on Environmental Protection to the Antarctic Treaty.

94. The IMO Legal Committee has now unanimously confirmed its preliminary decision that the prospective convention should consist of a two-tier system, in one instrument, involving the liability of the shipowner and the contribution of the cargo interests. Parties would be allowed to establish a linkage between this new convention and other regimes on limitation of liability. Also confirmed is that the system will be based on post-event contributions.

95. The inclusion of radioactive materials in the future convention is an unresolved issue. There is a strong view that the channelling of liability to the shipowner would be inappropriate and that the Parties to the Paris Convention on Third Party Liability in the Field of Nuclear Energy and the Vienna Convention on Civil Liability for Nuclear Damage must ensure provision in those Conventions for this type of compensation. Also, a number of countries, most prominently the members of the South Pacific Forum, attach great importance to having a comprehensive international regime to cover possible transboundary damage arising from peaceful nuclear activity, as well as stringent international rules and standards on ship carriage of such substances. To ensure that there is no conflict or gap between the existing conventions and the new convention, the matter may have to be taken up in the context of IMO/IAEA cooperation under the new Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-level Radioactive Wastes in Flasks on Board Ships (INF Code). 53/

96. The IMO Legal Committee and the contracting Parties to the London Convention have agreed that liability and compensation in connection with the accidental discharge of wastes in transit to a dumping site should be included with the scope of the draft convention. The Parties have agreed that both authorized and unauthorized disposal of wastes at sea would be addressed under the regime to be developed under article X of the London Convention, which extends to liability for damage caused by selection of wastes, selection of the site and the method of dumping, including that caused by deliberate disposal at places outside designated dumping grounds. Special note has been taken of the fact that the amended, and now far more restrictive, global regime has the effect of shifting the boundary between legal and illegal acts of dumping and creating a new focus for liability questions.

E. Regional developments

97. It must be noted that there is a growing emphasis on greater integration of cooperative activities at the regional level, and particularly in the case of enclosed and semi-enclosed seas. The Convention on the Law of the Sea (art. 123) calls for "coordination" of policies and actions with respect to marine environmental protection, fisheries management, conservation of living resources and marine scientific research. While there are many cooperative arrangements and programmes in these three areas, only a few offer coordinated policies and actions.

98. The Programme of Action for the Sustainable Development of Small Island Developing States 15/ is particularly enlightening in its depiction of current expectations from regional cooperation. For example, with respect to the management of wastes, it recommends the establishment of regional mechanisms for

environmental protection from ship-generated wastes, oil spills and the transboundary movement of toxic and hazardous waste "consistent with international law". 54/ For coastal and marine resources, it recommends regional actions which encompass fisheries research and surveys, development of ecosystem monitoring, integrated coastal zone management, information systems on resources and the environment, surveillance and monitoring, and harmonization and coordination of all policies and strategies which concern "sustainable management and utilization of coastal and marine resources". 55/

99. It is important to note, in relation also to activities supporting implementation of the Convention on the Law of the Sea, that the Programme of Action has called for regional action to draft model environmental provisions, to encourage harmonization of environmental legislation and policies, and to facilitate the acceptance and implementation of international conventions by providing information and advice on their "content, notification processes, financial and legal implications". 56/ Special mention is also made of regional action to support legal training and training manuals in the areas of environmental impact assessment, pollution, civil enforcement, mediation and prosecution. 57/

1. Mediterranean

100. An extensive evaluation was completed in 1993 of the pollution monitoring programme under the Mediterranean Action Plan. The findings of the expert group are generally pertinent. 58/ It found that the situation with regard to data submission to pinpoint land-based sources and assess waste management practices was very slow and fragmentary. It also found that the implementation of the Protocol on land-based sources of marine pollution, 10 years after its entry into force, was still inadequate. While most of the basic studies, guidelines, common measures and criteria have been formulated and agreed upon, the majority of Parties have not fulfilled their commitments to control and monitor effluents and sources.

101. The existing regional Protocol on emergency response to pollution incidents is now effectively supplemented in the Western Mediterranean by an agreement signed on 7 October 1993 covering the RAMOGE area (French Italian Monegasque Commission). This agreement, the first of its kind in the Mediterranean, is important for the UNEP/IMO Regional Marine Pollution Emergency Response Centre, which is currently preparing two subregional emergency plans for Cyprus, Egypt and Israel, and for Algeria, Morocco and Tunisia.

2. Black Sea

102. A technical consultation, conducted by the General Fisheries Council for the Mediterranean (GFCM), in Ankara in February 1993, 59/ provides a detailed, up-to-date picture of the marine environmental problems of the Black Sea and Azov Sea and strongly supports the development of comprehensive plans for the restoration, conservation and management of the living resources, the protection and restoration of biodiversity, the creation of protected areas and reserves and the development of integrated coastal area management. The Consultation

emphasized that the changes in marine resource and environmental changes in the Black Sea are closely interrelated, even if the relationship is yet to be precisely elucidated. It is important to note that a fisheries organization has taken the lead in stressing the need to coordinate fisheries management and environmental protection efforts. The Consultation called for the harmonization of fisheries and environmental legislation and the introduction of coordinative mechanisms (see also paras. 175-176 below). 60/

3. Africa

103. The new Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, adopted in September 1994 under UNEP auspices, seeks to realize in Africa the aims of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Biodiversity Convention. It is particularly noteworthy for the establishment of a multinational task force to investigate violations of relevant national laws and disseminate information on activities relating to them. 61/

104. The European Union and the Southern African Development Community held their first Ministerial Conference at Berlin on 6 September 1994, at which they decided "to enter into a comprehensive dialogue to further the development of relations between the two regions" and undertook to cooperate closely in the fight against, inter alia, the illegal dumping of toxic waste and illicit drug trafficking. 62/

4. South-East Asia

105. South-East Asia is increasingly regarded as the test case for effective cooperation on marine management, including environmental management. The region has special significance for global biodiversity and research into large marine ecosystems in view of its coral reefs, mangroves, sea grass and sedimentary habitats; it also has acute problems caused by rapid population growth, urbanization and industrialization, as well as busy shipping lanes and prospective, large offshore oil development. The region is now a focus of interest and activity by the International Geosphere-Biosphere Programme (in particular for its segment on land-ocean interactions in the coastal zone), the UNEP Regional Seas Programme, GEF and IMO.

VI. MARITIME SAFETY AND MARINE ENVIRONMENTAL PROTECTION

106. The mandate of IMO is now considered to be evolving along two broad avenues: the exercise of its global regulatory function with respect to maritime safety, marine pollution and related legal matters; and the promotion of technical cooperation aimed at effective implementation of IMO rules and standards.

107. IMO has made considerable progress in strengthening both flag State and port State implementation of its conventions and their related protocols, considering that the eradication of substandard ships requires the efforts of

both flag and port States. The wide variation in implementation of IMO instruments is the result of a combination of factors, including the ageing world fleet, the shrinking of traditional merchant fleets and the expansion of fleets in countries with little or no shipping experience, the introduction of more complex technology and the use of multinational crews with greater communication problems.

108. At the same time, the International Labour Organization (ILO) has also been active, adopting a new revised Code of Practice on Accident Prevention on Board Ship and in Port in 1993 and in preparing for the Tripartite Meeting on Maritime Labour Standards in late 1994. It will be considering revision of four ILO instruments dealing, respectively, with labour inspection, merchant shipping standards, wages and work hours, and placing of seamen.

A. Flag State implementation

109. IMO has made considerable strides over the last two years in enhancing the effectiveness of the exercise of flag State jurisdiction in the implementation of its conventions and other instruments, establishing for the purpose a new Subcommittee on Flag State Implementation, which reports to the Maritime Safety Committee and the Marine Environment Protection Committee. The 18th Assembly in November 1993 adopted three important resolutions in this area: resolution A.739(18) giving Guidelines for the Authorization of Organizations acting on behalf of the Administration (to carry out the surveys and inspections required under the International Convention for the Safety of Life at Sea (SOLAS) and the 1973 International Convention for the Prevention of Marine Pollution from Ships, as modified by the Protocol of 1978 thereto (MARPOL 73/78); resolution A.740(18) giving Interim Guidelines to assist flag States in ensuring compliance with IMO standards, and directing the two Committees to proceed urgently with a comprehensive analysis of difficulties encountered with implementing IMO instruments; and resolution A.741(18) setting forth the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

B. Port State control

110. Port State control is now becoming a standard feature in the maritime safety field. The new Procedures for the Control of Operational Requirements related to the Safety of Ships and Pollution Prevention 63/ provide detailed guidance for assessing the circumstances under which a port State can determine whether there are "clear grounds" for believing that the ship's officers and crew are not familiar with essential shipboard procedures. In such cases, port State control can be extended to ensure that there is proper compliance with the operational requirements for ship safety and pollution prevention. The Guidelines, to be made mandatory through the amendment of SOLAS and MARPOL 73/78 regulations, are the result of several years of mounting pressure to extend the scope of port State control. Prior to this development, port State control was limited to inspecting the condition of a ship or its equipment when there were "clear grounds" for believing that they did not correspond substantially with the particulars of the ship's certification of compliance.

111. IMO also actively promotes regional port State arrangements, under umbrella IMO provisions. There are now such arrangements for Latin America as well as Asia and the Pacific. A draft agreement is being prepared for the Caribbean. IMO is consulting also with maritime authorities in the South and East Mediterranean, the Middle East, West and Central Africa, and East Africa and the Indian Ocean. The new arrangements are mostly modelled after the 1982 Paris Memorandum of Understanding on Port State Control. 64/

C. Coastal State jurisdiction over foreign vessels

112. Questions as to the scope and nature of coastal State jurisdiction over foreign vessels in the exclusive economic zone are arising continually. Examples include interdiction at sea for illegal drug trafficking, mandatory ship reporting (see A/48/527, paras. 52-54), smuggling of aliens (see paras. 184-189 below), as well as the imposition of safety standards on fishing vessels, an issue left outstanding from the conference which adopted the 1993 Protocol amending the 1977 Torremolinos Convention (see A/48/527, para. 120). The particular issue was the application of uniform regional standards to fishing vessels "operating" in the region concerned, but not flying the flag of a State bound by those standards. It was referred to the IMO Legal Committee, which recognized that it had to be resolved in accordance with the Convention on the Law of the Sea. The Division for Ocean Affairs and the Law of the Sea was requested to submit comments on the issue. 65/

113. Once it was determined that a vessel engaged in fishing was "operating" within the meaning of the Torremolinos Convention, and that "any fishing activities" in the territorial sea were excluded from the meaning of innocent passage (art. 19 (2) (i) of the Convention on the Law of the Sea), the Legal Committee was able to affirm that a fishing vessel "operating" in the territorial sea was under the complete control of the coastal State. It could therefore readily impose a regional standard if so desired. Beyond the territorial sea, however, the Legal Committee concluded that a fishing vessel, like other vessels, was subject to exclusive flag State jurisdiction, so that regional standards could not be imposed unless the flag State were a party to the bilateral or multilateral agreement concerned.

114. In the exclusive economic zone, the Convention entitles coastal States to impose regulations on foreign vessels only in relation to the development, conservation and management of natural resources and the protection of the marine environment from pollution from vessels. With respect to pollution from vessels, this can only be done by giving effect to "generally accepted international rules or standards". There is no jurisdictional competence over foreign vessels in that zone for the sole purpose of imposing safety standards. While there is an ever increasing emphasis on the fact that both maritime safety and the prevention of pollution from ships are greatly dependent on safety standards, it was doubted that such an interrelationship applied in the case of fishing vessels. The Legal Committee specifically notes that there is still a difference of opinion as to whether article 62 of the Convention (on optimum utilization and conservation of living resources) provides a sufficient legal basis for imposing regional safety standards. The Legal Committee will give

further consideration to these issues on the basis of submissions from the regional organizations concerned, such as the European Community. 66/

D. Ships' routeing and reporting

115. In 1994, IMO adopted seven new traffic separation schemes and amendments to some 19 existing schemes. Subject to confirmation by the Assembly, new or amended "areas to be avoided", precautionary areas and recommendations on navigation have also been adopted. IMO is also gradually evolving a policy and an international framework for the introduction of mandatory requirements for ships' routeing and reporting.

1. Mandatory ship reporting systems

116. A new SOLAS Chapter V regulation (regulation V/8-1) on ship reporting systems has been adopted; work now focuses on the development of guidelines and criteria for such systems. 67/ The new regulation (adopted in May 1994) enables States to adopt and implement mandatory ship reporting to vessel traffic services in accordance with guidelines and criteria to be developed by IMO. The new regulation will make it mandatory for ships entering areas covered by ship reporting systems to report to the coastal authorities giving details of sailing plans. Other information in the case of certain categories of ships and ships carrying certain cargoes may also be required. The master of the ship must comply with these requirements. The regulation specifically states that all adopted ship reporting systems shall be consistent with international law, including the Convention on the Law of the Sea.

2. Ships' routeing and the regime for straits

117. Traffic separation schemes have long been a feature of navigation through congested areas, including through straits used for international navigation, the legal regime for which is set forth in Part III of the Convention. 68/ These mandatory measures are being continuously supplemented by additional, strongly recommended measures, such as the use of pilotage, which target the ships and types of cargo with the highest risk potential. In some cases, additional mandatory measures have been approved, a recent example being the introduction of mandatory ship reporting in the Strait of Bonifacio (see A/48/527, para. 50).

118. The IMO Maritime Safety Committee has also adopted Rules and Recommendations on Navigation through the Strait of Istanbul (Bosporus), the Strait of Çanakkale (Dardanelles) and the Sea of Marmara. 69/ They deal with the use of the new traffic separation schemes for the Straits, ship reporting and navigation information, pilotage, daylight transit, towing and anchorage. They allow for temporary suspension of passage (e.g., by conversion to one-way traffic) as dictated by safety considerations; prior reporting on vessel size and cargo is strongly advised, as is the use of pilotage services; and daylight transit only is advised for vessels over a certain size. In adopting the Rules and Recommendations, the Maritime Safety Committee stressed that they had been

established purely for the purpose of the safety of navigation and environmental protection and were not intended in any way to affect or prejudice the rights of any ship using the Straits under international law, including the Convention on the Law of the Sea and the 1936 Montreux Convention regarding the Regime of the Straits.

119. It may be noted that, under the Convention on the Law of the Sea (arts. 39, 41 and 42), ships in transit passage must comply with "generally accepted international regulations, procedures and practices" for safety at sea and environmental protection, which are those promulgated by IMO. Article 35 (c) of the Convention, however, states that the provisions of Part III, including those cited above, do not affect "the legal regime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits", and the Montreux Convention has long been considered as belonging in this category.

120. Concerns as to pollution prevention and navigational safety in the above-mentioned Straits and in the Sea of Marmara have been mounting, and Turkey has expressed its fears in various forums, including the last meeting held in 1993 of Parties to the Barcelona Convention on the protection of the Mediterranean Sea. 70/ The development of oil exports from the countries of the Black Sea region and Central Asia has further complicated the problems involved. Greatly increased traffic in the Straits has brought a dramatic increase in the number of collisions. 71/

121. Turkey has imposed national Maritime Traffic Regulations (as of 1 July 1994), which were protested by the Russian Federation at the IMO Legal Committee on the grounds that they do not conform with the 1936 Montreux Convention, the Convention on the Law of the Sea, "provisions of customary law on international straits" and the IMO General Provisions on Ships' Routeing. 72/ Turkey, on the other hand, maintains that the corresponding provisions in its regulations conform fully to the IMO recommendations, which it considers to be more stringent in certain instances than its own regulations. 73/ It may be noted that Turkey has also invoked the Basel Convention in respect of the right it gives a transit State to require prior permission for the transboundary movement of wastes through areas under its national jurisdiction. 74/

122. The problems that have arisen with respect to navigation in the Straits have both a regional and a global perspective, as well as being of vital concern to one State in particular. The Secretary-General encourages States to support any efforts to resolve the present difficulty, inter alia, through an agreed interpretation of the applicable international rules.

E. Hydrographic surveying and charting

123. Revision of the regulation in SOLAS Chapter V dealing with nautical and hydrographic services is under discussion, including the imposition of an obligation to collect, compile, publish and disseminate nautical and hydrographic data and information for environmental protection as well as safe navigation. While IMO is the regulatory authority for ships' routeing, IHO provides the necessary advice, for example, on the hydrographic conditions for

establishing sea lanes and traffic separation schemes and arranges for their presentation on charts. IHO has welcomed the suggestion to elaborate upon the responsibilities of Parties to SOLAS, emphasizing that the availability of good hydrographic surveys and charts contributes substantially to the prevention of pollution from ships, and that hydrographic tasks such as observing tides and currents are fundamental to the prediction and monitoring of marine pollution. 75/

124. IHO has for some time stressed the particular urgency of establishing hydrographic conditions in the South China Sea to support additional ships' routeing schemes in the area, and has sought to create a regional cooperative arrangement for the purpose. So far, no progress has been made.

F. Technical assistance under the OPRC Convention

125. Technical cooperation and assistance is the essence of the 1990 International Convention on Oil Pollution, Preparedness, Response and Cooperation (OPRC Convention), and is thus an important avenue for implementing also the relevant provisions of the Convention on the Law of the Sea. It will enter into force on 13 May 1995.

126. IMO is currently developing model courses on oil spill response, organizing a research and development (R and D) forum, and co-sponsoring international conferences. The Working Group set up under the Marine Environment Protection Committee for the OPRC Convention is developing an implementation strategy concentrating on national contingency planning. This entails cooperation with the UNEP Regional Seas Programme, as well as with UNEP and OECD on chemical accidents in ports.

VII. MARINE SCIENTIFIC RESEARCH

127. The effective implementation of the Convention on the Law of the Sea rests particularly on close international cooperation, the integrity of the relevant international legislative or management authority, and on ensuring that management is science-based. The effectiveness of international cooperation for marine scientific research and the provision of ocean services, as well as for marine technology development and transfer has fundamental importance for the Convention as a whole, as emphasized in the 1990 and 1991 reports of the Secretary-General on the needs of States under the Convention (A/45/712 and A/46/722).

128. The Convention on the Law of the Sea is linked to the Conventions on climate change and biodiversity by virtue of their contribution to marine environmental protection and the conservation of living resources. With the entry into force of all three Conventions, IOC, for example, has stressed that there should be some convergence to reinforce the policy framework for international cooperation. 76/

129. The assumption of the specific responsibilities of IOC under the Convention, and careful consideration of the general implications of its entry

into force over the longer term, are matters of particular importance for the policies and operation of the Commission, 77/ considering also the parallel process, now well under way, for the strengthening of its mandate and the achievement of greater autonomy within UNESCO.

130. The importance of specifically providing for scientific and technical advice for the operation of international conventions is increasingly recognized, as in the case of article 25 of the Biodiversity Convention which establishes a subsidiary body specifically to advise on scientific, technical and technological matters. Preparations for the first Conference of States Parties to the Convention have included special consultations of scientific experts.

VIII. CONSERVATION AND MANAGEMENT OF LIVING MARINE RESOURCES

A. World fisheries situation

131. In a statement issued on 13 April 1994, FAO indicated that most of the world's major fisheries were over-exploited and that the latest figures for marine fishing showed a 1992 catch of 82.5 million tons, well below the 1989 peak of 86.5 million tons. 78/

132. It further noted that improvements in fishery technology had enabled large subsidized fishery fleets from industrialized nations to seriously deplete once abundant commercially valuable species, first in the North Atlantic and North Pacific and then in the tropics. In two recent reports, 79/ FAO has warned that, unless industrial fishing fleets are controlled through national and international regulation, disastrous social and economic consequences await the entire industry, including food shortages in the coastal communities of developing countries where seafood provides the major source of dietary protein and minerals, as well as livelihood. 80/

133. In addition, FAO indicated that the distribution of the world catch and fish consumption had become increasingly unbalanced because of the imbalance in the distribution of fish resources in the oceans and in the distribution of wealth. According to FAO statistics, 19 countries landed 80 per cent of the marine catch, while 15 countries consumed about 80 per cent of it. In value terms, 46 per cent of fish traded internationally came from developing countries. 81/

134. FAO therefore urged the introduction of a precautionary approach to fisheries management, which would discontinue the current management approach aimed at the highest possible catch irrespective of its composition and value. FAO recommended instead the reduction of fleet sizes and catch targets and the adoption of safer biological thresholds that were more likely to sustain fish stocks, given the high level of uncertainty regarding the state of marine resources. 82/

B. Strengthening of flag State responsibility

135. There have been important international efforts during the last few years to strengthen flag State responsibility in the conservation and management of the world's dwindling fishery resources. Two conventions have been adopted since last year's report, both of which attempt to control fishing activities particularly through enhanced oversight by flag States. In addition, the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks (see A/49/522) continues to draft a new instrument aimed at strengthening cooperation among States and highlighting, inter alia, flag State responsibility. The FAO code of conduct, described below, is another attempt in a similar direction.

1. Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas

136. On 24 November 1993, the FAO Conference unanimously adopted a resolution approving the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. 83/ The Agreement was done in response to problems caused by flagging or reflagging of fishing vessels as a means of avoiding internationally agreed conservation and management measures and fair trade practices. In the course of negotiations, the focus of the attention shifted from the act of "flagging", which was essentially a matter for the transport and merchant shipping authorities of States, to the act of authorizing fishing, which was a matter wholly within the competence of fisheries authorities.

137. The Agreement is based on the right of all States for their nationals to engage in fishing on the high seas and the duty of all States to cooperate with other States in taking such measures as may be necessary for the conservation and management of the living resources of the high seas, in accordance with international law as reflected in the Convention on the Law of the Sea.

138. The Agreement first attempts to strengthen flag State responsibility by laying down the fundamental obligation of each party to "take such measures as may be necessary to ensure that fishing vessels flying its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures". In particular, no party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been so authorized by its authorities; nor shall any Party authorize any such vessel to be used for fishing on the high seas unless the Party is satisfied that it is able to exercise effectively its responsibilities under the Agreement. 84/

139. No party to the Agreement shall authorize any vessel previously registered in the territory of another party that had undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas, unless certain conditions set out in the Agreement are met. Furthermore, a flag State is under the obligation to maintain a record of fishing vessels entitled to fly its flag and authorized to be used for high seas

fishing and to ensure that they are marked in such a way that they could be readily identified. Other important features of the Agreement stress that each party shall ensure that fishing vessels flying its flag provide the flag State with all relevant information and that it shall take enforcement measures in respect of fishing vessels entitled to fly its flag which violate the provisions of the Agreement. 85/

140. The Agreement gives an important role to port States. When a fishing vessel is voluntarily in the port of a party, that State shall promptly notify the flag State where it has reasonable grounds for believing that the vessel has been used for an activity that undermines the effectiveness of international conservation and management measures. 86/

141. The Agreement provides a mechanism for information exchange on fishing vessels: Parties shall provide FAO with up-to-date information on various aspects regarding all fishing vessels which they are required to maintain in their records; and FAO shall circulate such information periodically to all Parties. 87/

142. Finally, with regard to the settlement of disputes, the Agreement provides for judicial procedures, including submission to the International Tribunal for the Law of the Sea, with the consent of the Parties. 88/

2. Central Bering Sea Convention

143. The adoption on 11 February 1994 of the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea by China, Japan, Poland, the Republic of Korea, the Russian Federation and the United States 89/ strengthens the new trend set by the FAO Compliance Agreement that requires flag States to assume greater responsibility for the control of their vessels while engaged in high seas fishing.

144. The Convention provides that each party "shall take all necessary measures", including, inter alia, those to ensure that fishing vessels fish only in the Convention area pursuant to specific authorization issued by the flag State, and to ensure that fishing operations undertaken by vessels flying its flag in violation of the provisions of the Convention would constitute an offence under its national legislation. 90/

145. As part of control and surveillance measures, the Parties are under the obligation to require their fishing vessels fishing for pollock to use satellite position-fixing transmitters, to accept non-flag State party observers on their fishing vessels, to make prior notification of their entry into the Convention area and to notify the other Parties in advance of the location of any transshipments of fish and fish products. 91/

146. The Convention also requires the Parties to take measures to prevent fishing vessels flying their flags from transferring their registration for the purpose of avoiding compliance with the conservation and management regime established in the Convention. 92/

147. In addition to obligations related to the exchange of information and catch data on a regular basis, the Convention incorporates innovative enforcement measures such as the boarding and inspection of a fishing vessel of a flag State party by another flag State party. 93/ It further invites Parties to take measures "they deem necessary and appropriate" to deter fishing operations of non-Parties which could adversely affect the objectives of the Convention. 94/

C. International Code of Conduct for Responsible Fishing

148. Pursuant to a decision by the FAO Conference at its twenty-seventh session to adopt a "fast-track" approach for the formulation of the "General Principles" of the Code of Conduct for Responsible Fishing, an Informal Working Group of Government-designated experts in February 1994 reviewed the first secretariat draft of the General Principles, and a new version was then circulated for comments to FAO members and other relevant bodies. Taking into account the comments received, the secretariat submitted the entire draft Code 95/ to the Technical Consultations on the Code of Conduct for Responsible Fishing, held from 26 September to 5 October 1994, with a view to improving the draft before its submission to the Committee on Fisheries in March 1995.

149. As a general principle underlying the future Code, it was agreed that fisheries should be conducted in a responsible manner in view of their importance for present and future generations and as sources of food, employment and recreation for people throughout the world. The Code would set out voluntary guidelines and international standards for responsible practices with a view to ensuring the effective conservation, management and development of marine resources in harmony with the ecosystem and biodiversity. The Code would be applied in accordance with the provisions of the Convention on the Law of the Sea and would be interpreted, inter alia, within the framework of the Declaration of Cancún and Agenda 21 of UNCED. 96/

D. Protection of marine mammals

150. At its 46th Annual Meeting in May 1994, the International Whaling Commission adopted a proposal to establish a "Southern Ocean Sanctuary" in which commercial whaling is prohibited. This decision, which bans whaling in about 21 million square kilometres around Antarctica, 97/ was in the form of an amendment to the Schedule to the 1946 International Convention for the Regulation of Whaling. The amendment prohibits all commercial whaling, whether by pelagic operations or from land stations, in the Sanctuary, which comprises the waters of the southern hemisphere southward of the line connecting a number of points located between 40 and 60 degrees south. 98/

151. The prohibition applies irrespective of the conservation status of baleen and toothed whale stocks in the Sanctuary, as may from time to time be determined by the Commission. However, this prohibition is to be reviewed 10 years after its initial adoption and at succeeding 10-year intervals, and could be revised at such times by the Commission. 99/

152. The proposal, originally put forward by France, was opposed as lacking in scientific basis by Japan, which cast the sole negative vote, and by Norway, which did not participate in the voting.

153. In addition, the Commission accepted and endorsed the Revised Management Procedure for commercial whaling and associated Guidelines for surveys and collection of data. However, it noted that work on a number of issues, including specification of an inspection and observer system, remained to be completed before the Commission would consider establishing catch limits other than zero. 100/

154. The Bonn Convention on the Conservation of Migratory Species of Wild Animals is one of a small number of global conventions concerned with the conservation of wildlife and their habitats. Presently, there are some 50 species listed in its Appendix I; Appendix II lists species that would benefit significantly from cooperation agreements under its umbrella. Four such agreements have so far been concluded, including Wadden Sea seals, and small cetaceans of the Baltic and North Seas. Draft agreements are now being developed for small cetaceans of the Mediterranean and Black Seas.

155. At its last conference, in June 1994, the Parties to the Bonn Convention adopted a revised strategy for the future development of the Convention, conscious that it is closely related to such instruments as the Convention on biological diversity, CITES, the Convention Concerning the Protection of the World Cultural and Natural Heritage, the International Convention for the Regulation of Whaling, and the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), as well as to various regional arrangements.

E. Disputes over United States restrictions on imports of tuna

156. On 20 May 1994, the Dispute Settlement Panel of the General Agreement on Tariffs and Trade (GATT), established under article XXIII (1) to consider the dispute between the United States, on the one hand, and the European Economic Community (EEC) and the Netherlands (on behalf of the Netherlands Antilles), on the other, over the United States restrictions on imports of tuna, submitted its report to the Parties. 101/ The Panel observed that the issue in the dispute was not the validity of the environmental objectives of the United States to protect and conserve dolphins but rather whether, in the pursuit of its environmental objectives, the United States could impose trade embargoes to secure change in the policies which other contracting Parties pursued within their own jurisdictions. It concluded, inter alia, that the United States import prohibitions on tuna and tuna products under section 101 (a) (2) and section 305 (a) (1) and (2) of its Marine Mammal Protection Act were contrary to article XI (1), and were not covered by the exceptions in article XX (b), (g) or (d) of GATT. In addition, the Panel recommended that the contracting Parties request the United States to bring the disputed measures into conformity with its obligation under GATT. 102/

157. The dispute stemmed, on the one hand, from the United States prohibition, under the Act, of direct imports of tuna or tuna products ("primary nation

embargo") from tuna-exporting countries, whose method of fishing resulted in the incidental killing or serious injury of marine mammals in excess of United States standards, and, on the other, from its restrictions affecting indirect imports of tuna ("intermediary nation embargo"), which required a country that exported to the United States yellowfin tuna or yellowfin tuna products which were subject to a direct prohibition on import to certify and provide reasonable proof that the country concerned had not imported products subject to such prohibition within the preceding six months. 103/

158. The United States Act prohibited the "taking" of any marine mammal, whether directly or incidentally, in connection with the harvesting of fish. The Act further prohibited the import into the United States of any marine mammal or its product, and any fish or fish product harvested through the incidental taking of marine mammals. 104/ The stated purpose of the Act was to protect marine mammals which might otherwise be in danger of extinction or depletion.

159. The EEC and the Netherlands expressed the views that the restrictive measures of the United States were in fact a quantitative restriction of trade of tuna and tuna products that was contrary to article XI of GATT, and could not even be justified in view of the fact that the resources to be protected were located outside its jurisdiction. They also pointed out that dolphin deaths incidental to commercial tuna fishing had reached a new low of about 15,500 in 1992. Since this represented much less than 1 per cent of the total dolphin population in the eastern tropical Pacific, it could not be said that the survival of the population was currently at risk. 105/

160. In their submissions, interested third States (Australia, Canada, Japan, New Zealand, Thailand and Venezuela), while recognizing the importance of conserving and protecting the world's natural resources, including the need to reduce dolphin mortality, wondered whether the United States trade measures designed to achieve such ends were consistent with its international obligations. They expressed the view that while the conservation of dolphins was an important objective, Parties were not justified or permitted under international law to restrict imports of tuna from other countries as a means of encouraging them to reduce dolphin by-catches. 106/

F. Regional developments

1. North Pacific

161. The Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean 107/ came into force on 16 February 1993, upon ratification by all four original Parties, i.e., Canada, Japan, the Russian Federation and the United States. The Convention has thus replaced the International Convention for the High Seas Fisheries of the North Pacific Ocean. The North Pacific Anadromous Fish Commission, which was set up by the Convention, held its first meeting in November 1993. 108/

162. Despite the discussions among interested States in 1993 (see A/48/527, para. 123), the fisheries situation in the high seas enclave in the Okhotsk Sea is, according to the Russian Federation, becoming more acute, with "the

continuation of unregulated and unscientific fishing in the enclave ... without regard for the stock conservation measures elaborated and approved by the Russian Federation, as a coastal State, and applied on a non-discriminatory basis". 109/ The Russian Federation has thus called for the adoption of urgent measures at the international level, with the participation of all interested States, "in order to avoid the need for unilateral protective measures by the Russian side designed to prevent the destruction of the ecosystem of the Sea of Okhotsk." 110/

163. Citing an impasse in talks to renew the 1985 Canada-United States Treaty concerning the Pacific Salmon, Canada announced on 9 June 1994 that effective 15 June, all United States commercial fishing vessels transiting through inside water passages on the British Columbia coast on their way to and from fishing grounds off Alaska would be required to purchase a licence fee of 1,500 Canadian dollars for each trip. Failure to comply with these provisions could result in a fine, confiscation of vessel and/or gear under the Canadian Fisheries Protection Act. Canadian authorities justified the measures as a means to protect Canadian communities which depended on the salmon resource for their livelihood. United States authorities reportedly stated that the Canadian measure might be illegal under the international law of the sea, including the right of free passage. 111/

164. In mid-July, as the fishing season approached, the two Governments agreed to follow last year's conservation and management plan and continue the talks in 1995. It was reported that Canada, which had collected licence fees from some 300 vessels, had agreed to suspend this measure while negotiations continue. 112/

2. South Pacific

165. The 1993 Convention for the Conservation of Southern Bluefin Tuna (see A/48/527, para. 127) entered into force on 20 May 1994 following its ratification by Australia, Japan and New Zealand. The Commission for the Conservation of Southern Bluefin Tuna was thus established, and at its first annual meeting (May 1994) has agreed on the annual quota for the three Parties.

166. The Twenty-fifth South Pacific Forum (31 July-2 August 1994) welcomed the imminent entry into force of the Convention on the Law of the Sea, which would, inter alia, provide a stronger basis for continued progress in coordination and cooperation in the conservation, management and exploitation of the living marine resources occurring within the region's exclusive economic and fisheries zones. The Forum also agreed that multilateral approaches would be strengthened to promote the sustainable exploitation of fish stocks within the region, and that towards that end there was the need to define sustainable catch levels for all fisheries based on the precautionary principle, for countries to work together to enhance the monitoring and policing of fishing, to obtain fair prices for the fisheries resource and to exploit opportunities for value-added production. 113/ The Forum leaders made a separate statement on resource management issues. On fisheries, they recognized that the region's fisheries were an "internationally significant resource" from which the countries of the region should receive a fair return, and supported the development of a

multilateral approach to negotiating access to fisheries in their exclusive economic zones. 114/

3. Indian Ocean

167. An Agreement for the Establishment of the Indian Ocean Tuna Commission was approved by the FAO Council on 25 November 1993 and transmitted to FAO member States for acceptance on 16 March 1994. The Agreement covers the Indian Ocean and adjacent seas north of the Antarctic convergence. The Commission would involve all FAO members whose territories were situated wholly or partly within the area, and member countries whose vessels fish in the area for tuna, including the European Community. The Commission would promote optimum utilization of tuna and tuna-like species as well as sustainable development of tuna-based fisheries in the region. It would be responsible for keeping the conditions and trends of tuna stocks in the region under review and would have the power to adopt conservation and management measures binding on its members. The Agreement also includes provisions to ensure that these measures are actually implemented. 115/

4. Atlantic Ocean

168. The International Commission for the Conservation of Atlantic Tunas (ICCAT) at its 13th regular meeting (8-12 November 1993) adopted several recommendations, including recommendations to adopt effective measures to limit the biennial catch of the Central North Atlantic bluefin tuna for 1994 and 1995 at 1,300 metric tons, not to commence new bluefin tuna fisheries during the period and to ban the use of large pelagic long-line fishing vessels greater than 25 metres in length for bluefin tuna in the Mediterranean during the months of June and July. 116/

169. The Commission also adopted a declaration requesting the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks to "consider urgently the necessity of managing the stocks of highly migratory species throughout their entire migratory range". 117/

5. North Atlantic

170. The Northwest Atlantic Fisheries Organization (NAFO), responding to declining fish stocks, adopted drastic quota cuts at its 15th annual meeting in September 1993. Total allowable catch cuts for 1994 included reductions for American plaice, cod, redfish and witch flounder. NAFO also agreed to extend through 1994 the moratorium on directed fisheries for cod in Division 3L of the NAFO Regulatory Area. NAFO's General Council expressed also concern over non-contracting Parties' "harmful" fishing in the NAFO Regulatory Area and agreed to undertake "further diplomatic démarches" to urge non-NAFO vessels to cease fishing in the area before the 1994 starting season. 118/

171. Alleging that straddling fish stocks on the Grand Banks were threatened with extinction, primarily by vessels without nationality or operating under

flags of convenience in disregard of NAFO conservation measures, in May 1994 Canada amended its Coastal Fisheries Protection Act in order to regulate foreign vessels fishing in the high sea areas adjacent to the Canadian fisheries waters. The amendment provides that no person aboard a foreign fishing vessel shall, in the NAFO Regulatory Area, fish or prepare to fish for a straddling stock in contravention of any of the prescribed conservation and management measures. The amended Act authorizes a protection officer to board and inspect any fishing vessel found in the area concerned, and further to "use force that is intended or is likely to disable a foreign fishing vessel" in order to arrest the master. Following the amendment to the Act, the Coastal Fisheries Protection Regulations were also amended, prescribing, inter alia, the list of straddling stocks concerned and the manner in which Canadian officers may use force.

6. South Atlantic

172. In the Declaration on the Marine Environment (see para. 59 above), the South Atlantic States declared that they should "widely apply precautionary approaches" to fisheries management; effectively exercise jurisdiction and control over vessels flying their flag; cooperate to achieve conservation and management measures for straddling and highly migratory fish stocks on the high seas that were consistent with those of coastal States; and take measures "beyond their exclusive economic zones to preserve and protect their rights and interests from harmful fishing practices". 119/

173. A fisheries agreement was signed in Brussels on 24 May 1994 between Argentina and the European Union (EU). The Agreement, considered as the EU's first fisheries accord with a Latin American State, would open up important opportunities for commercially lucrative fishing for Community vessels and would meet the goals of its fisheries structural policy by providing a mechanism for the definitive transfer of Community vessels to Argentina through a change of flag. It would also help the restructuring of the Argentina fleet. 120/

174. The five-year agreement would break new ground by promoting the creation of joint fishing ventures between the Parties and by providing preferential access to the EU market for Argentina's fish exports. The accord would also devote 28 million ECU for fisheries research, technology development programmes, port infrastructure improvement and training. 121/

7. Black Sea

175. With a general deterioration of the marine environment and fishery resources, suggestions have been made to adopt a new convention for the Black Sea fisheries and to revive the Mixed Commission for the Black Sea Fishery, which, having partial membership, has not been active for several years. In a technical consultation sponsored by GFCM, a recommendation was made that a "well-structured" fishery commission in the Black Sea was essential for the management of and rational exploitation of the fish stocks. The consultation noted the offer by Turkey to collaborate in the preparation of a draft fishery convention applicable to all Black Sea coastal States. The consultation requested that, in the preparation of the draft, consideration should be given

to a number of specific points, including the compatibility with the relevant provisions of the Convention on the Law of the Sea, as well as the need for provisions dealing with surveillance, national and international inspection, enforcement and dispute settlement. 122/

176. Further, the consultation agreed on the need for a revised and harmonized fisheries legislation for Black Sea States with a view to implementing sustainable fisheries management measures. 123/

IX. CRIME AT SEA

177. In the face of serious crimes with transboundary effects, such as illicit traffic in narcotic drugs and psychotropic substances, especially organized smuggling of aliens, piracy and armed robbery, the international community is under increasing pressure to strengthen cooperation to suppress such crimes, particularly at sea. While efforts are being made primarily to strengthen the responsibility of flag States to control illicit traffic in narcotic drugs and the smuggling of aliens, it is at the same time recognized that flag States cannot adequately deal with such serious crimes by themselves. International cooperation may be pursued through bilateral or regional agreements, 124/ by facilitating the interdiction of ships at sea by other States or by subjecting such interdiction to a case-by-case authorization procedure by the flag State. It is also noted that the draft statute for an international criminal court adopted by the International Law Commission at its forty-sixth session in 1994 125/ permits jurisdiction over certain crimes established under or pursuant to a number of multilateral treaties, including crimes involving illicit traffic in narcotics drugs and psychotropic substances as envisaged in article 3 (1) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, because they constitute exceptionally serious crimes of international concern.

A. Illicit traffic in narcotic drugs

178. Conscious of the need to improve international cooperation in combating illicit traffic in narcotic drugs and psychotropic substances by sea and of the need for effective implementation of article 17 (on illicit traffic by sea) of the 1988 Convention, the Commission on Narcotic Drugs, by its resolution 9 (XXXVII) of 21 April 1994, mandated a working group on maritime cooperation to develop a comprehensive set of principles and specific recommendations to enhance, on a global basis, the implementation of that article. In the resolution the Commission noted the impending entry into force of the Convention on the Law of the Sea and invited the Division for Ocean Affairs and the Law of the Sea to participate in the working group. In addition to articles 27 and 108 referring specifically to illicit traffic in narcotic drugs, 126/ the Convention on the Law of the Sea contains several provisions which are relevant to the subject.

179. The Working Group held its first meeting from 19 to 23 September 1994, for which the Division prepared a paper on the relationship between the Convention on the Law of the Sea and article 17 of the 1988 Convention. 127/

180. The Working Group reviewed the recommendations of an Expert Group 128/ and the issues identified by the Commission on Narcotic Drugs, and made a number of preliminary recommendations for further consideration at its next meeting (February 1995), including: exchange of information; technical assistance; the exercise of flag State jurisdiction; drug trafficking by vessels without nationality; boarding, search and related procedures; cost and damages; controlled delivery; and development of a network of bilateral and regional agreements.

181. The Council of Europe recently concluded its work on a regional agreement to implement and supplement at the regional level article 17 of the 1988 Convention. The Agreement on Illicit Traffic by Sea, Implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which was adopted by the Committee of Ministers on 8 September 1994, 129/ will be opened for signature on 31 January 1995. Only those States members of the Council of Europe and non-member States invited to accede to the Agreement which have ratified the 1988 Convention may become Parties to the Agreement.

182. The area of application of the Agreement is the area beyond the territorial sea of any State; however, the Agreement contains the same non-derogation provision as article 17 of the 1988 Convention, to the effect that any action taken in pursuance of the Agreement must take due account of the need not to interfere with, or affect the rights and obligations and exercise of jurisdiction by, coastal States, in accordance with the international law of the sea.

183. The Agreement not only requires each party to establish its jurisdiction over the offences listed in the 1988 Convention when committed on board a vessel flying its fla , but also requires it to establish its jurisdiction over those offences comm :ted on board vessels of other Parties or on board a vessel without nati. nality. Jurisdiction over vessels flying the flag of a State other than the intervening State can only be exercised in conformity with the Agreement, particularly respecting the principle which gives to the flag State "preferential jurisdiction" 130/ concerning any relevant offence committed on board its vessel or in relation to the rules on the necessity of having prior authorization before any action is taken.

B. Smuggling of aliens

184. International shipping is increasingly being used as a route for people desperate to escape their own national circumstances. The Commission on Crime Prevention and Criminal Justice has recognized the practice of smuggling illegal migrants as a widespread international criminal activity, frequently involving organized international syndicates that traffic in human cargo. 131/ It has been remarked that there is little or nothing a ship can do to prevent the intrusion of illegal migrants who come aboard, often in sealed containers, and that it is predominantly a port security problem. 132/

185. In view of the serious danger associated with the smuggling of aliens, the IMO Assembly adopted a resolution on enhancing the safety of life at sea by

preventing and suppressing unsafe practices associated with such smuggling. The resolution notes SOLAS and in particular article 94 of the Convention on the Law of the Sea, which requires every State to exercise jurisdiction over ships flying its flag and to take such measures as are necessary to ensure safety at sea. It also recalls the principle reflected in article 226 (2) of the Convention, which requires States to cooperate to develop procedures for avoiding unnecessary physical inspection of vessels at sea.

186. The resolution further invites Governments to develop agreements and procedures to facilitate cooperation in applying effective measures. In particular, it encourages them, when notified by another Government that there are reasonable grounds to suspect that a ship entitled to fly their flag may be engaged in such practices, to request, or if requested to authorize, the notifying Government to carry out a safety examination of the ship on their behalf. This would be done in accordance with the relevant law and on such terms and conditions as the Governments may agree to be appropriate, pursuant to relevant bilateral or multilateral agreements. Governments are urged to immediately report the findings of the safety examination to the flag State, and after giving or receiving reports on the ship involved to immediately consult on the further actions to be taken. Governments are requested to take required action in accordance with international conventions to detain an unsafe ship involved in alien smuggling and to report promptly to the flag State and to the Secretary-General of IMO all incidents concerning unsafe practices associated with alien smuggling which come to their attention.

187. The General Assembly, in its resolution 48/102 of 20 December 1993 entitled "Prevention of the smuggling of aliens", recalling relevant international agreements and conventions, including SOLAS and its Protocol of 1978, requested States to cooperate in the interest of safety of life at sea, to increase their efforts to prevent the smuggling of aliens on ships and to ensure that prompt and effective action be taken against such acts.

188. Pursuant to that resolution, the Commission on Crime Prevention and Criminal Justice has given special attention to the question. In its resolution on the subject, 133/ the Commission reaffirmed the need for fully observing international and national laws and requested States to: share information; coordinate law-enforcement activities; cooperate in order to trace and arrest the organizers of such smuggling; and take effective and expeditious measures, providing appropriate penalties to combat the organized smuggling of illegal migrants, including, inter alia, the misuse of maritime transport. A number of States have taken specific measures, including increased vigilance at ports and enacting or amending their legislation. Efforts are also being made at the regional level to deal with the problem. 134/

189. The report of the Secretary-General on the subject notes that transnational criminal organizations are making the interdiction efforts of law-enforcement authorities increasingly more difficult by, inter alia, changing the types of vessels used and their flags of registry. To assist those States which have experienced difficulties in dealing effectively with alien-smuggling, in particular developing countries and those in transition, greater emphasis could be placed on the promotion of international cooperation and technical assistance. Steps should also be taken to improve coordination between national

law-enforcement authorities, in cooperation with the competent international bodies and carriers engaged in international transport. The Secretary-General has suggested that the General Assembly consider a fully concerted course of action to be taken in connection with the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in April 1995 (A/49/350, paras. 97-100).

C. Piracy and armed robbery

190. The South China Sea is plagued by piracy and armed robbery: a regional analysis of reports received by IMO between May and December 1993 shows that out of 67 incidents world wide, 42 took place in the East China Sea and the South China Sea, and 37 of these occurred in international waters, two in territorial waters and three in port areas. 135/

191. During the same period only one incident was reported to have taken place in the Malacca Strait area. 136/ The significant reduction in the number of incidents of piracy and armed robbery in this area, attributed to the implementation of countermeasures by the three littoral States (including coordinated sea patrols), has also highlighted the importance of implementing the recommendations of the IMO Working Group on the Malacca Strait Area (see A/48/527, para. 141). 137/ The latest IMO Assembly resolution on the prevention and suppression of piracy and armed robbery against ships is aimed at providing a basis for immediate implementation of those recommendations. It recalls article 100 of the Convention on the Law of the Sea, which requires all States to cooperate to the fullest possible extent in the repression of piracy on the high seas, and goes on to invite Governments to develop and continue cooperation arrangements with neighbouring States, including the coordination of patrol activities and the operation of rescue coordination centres.

192. The Governments of the South China Sea region and the shipping industry have been invited to place particular emphasis on the wide and effective implementation of the Working Group's recommendations. This was the first recommendation contained in the report of the IMO fact-finding mission to China, Hong Kong and the Philippines in March 1994. 138/ Other recommendations address some specific problems in the area. 139/

193. The report also notes that the nature of the acts reported to have taken place for a considerable time on the eastern side of the South China Sea (around the Philippine archipelago) qualify as acts of piracy and armed robbery against ships.

194. The International Chamber of Commerce has brought to the attention of IMO a relatively new phenomenon in the interception of ships on the high seas which may or may not be piracy, according to whether or not the interceptors have legal authority. Increasingly, ships in the waters of the South China Sea, the East China Sea and the Yellow Sea are being asked to yield to boarding Parties which have then proceeded to seize cargoes, arrest ships and their crews and make financial demands for the release of the ships and crews. 140/

PART TWO

ACTIVITIES OF THE DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA OF THE OFFICE OF LEGAL AFFAIRS

I. PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

195. In 1994, the Preparatory Commission concluded its substantive work after 12 years of deliberation. 141/ During the concluding twelfth session, in 1994, there were 10 formal meetings of the Plenary, in addition to a number of meetings of the subsidiary organs. In accordance with the decision of the Preparatory Commission, the Group of Technical Experts held two sessions, and the Training Panel held nine meetings.

196. Following the established practice, a number of working papers and background papers were presented by the Secretariat to the Commission and its subsidiary organs. These papers dealt, inter alia, with: the status of implementation of the registered pioneer investors' obligations under resolution II and the related understandings; rules of the International Tribunal for the Law of the Sea; cooperation and relationship between the United Nations and the Tribunal; initial financing and budget of the Tribunal; rules of procedure for the first meeting of States Parties to the Convention for the establishment of the Tribunal; and budgets for the first financial period of the Authority and of the Tribunal.

197. The principal actions taken by the Preparatory Commission during the twelfth session were as follows.

A. Implementation of resolution II of the Third United Nations Conference on the Law of the Sea

198. On 2 August 1994, the General Committee, which acts on behalf of the Preparatory Commission as the executive organ for the implementation of resolution II of the Third United Nations Conference on the Law of the Sea, registered the Government of the Republic of Korea as a pioneer investor. On 12 August 1994, the Committee adopted an understanding on the fulfilment of obligations by the registered pioneer investor and its certifying State, the Republic of Korea. 142/

199. The General Committee considered and took note of periodic reports submitted by the certifying States - France (on behalf of Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER) - Association Française d'Etudes et de Recherche des Nodules (AFERNOD)), India, Japan (on behalf of Deep Ocean Resources Development Co., Ltd. (DORD)), China (on behalf of the China Ocean Mineral Resources Research and Development Association (COMRA)), Poland (on behalf of the Interoceanmetal Joint Organization (IOM)) and the Russian Federation (on behalf of Yuzhmorgeologiya). 143/

200. The General Committee, on 8 February 1994, considered and took note of the report of the Group of Technical Experts which had been convened to review the state of deep seabed mining and to make an assessment of the time when commercial production might be expected to commence. 144/ The report concluded, inter alia, that commercial production from the deep seabed was likely at some time in the future; that it was certain that such mining would not take place during the remainder of the current decade (up to the year 2000); and that it was unlikely that it would take place during the following decade (2001-2010). 145/ The General Committee also took note of the notification of relinquishment of pioneer areas by two registered pioneer investors, the Government of India and IOM. China reported that, as a result of the sinking of its research vessel, it had had to postpone its arrangements to comply with the prescribed schedule for the relinquishment of areas. The Committee recommended to the International Seabed Authority that the Council should continue monitoring the relinquishment of areas by the registered pioneer investors. 146/

201. With regard to the obligation of IOM to provide to the Preparatory Commission computerized database disks for samples and other information on the extensiveness of ore fields and contents of main metals in the area reserved for the Authority, the General Committee took note of the report containing the required data submitted by the delegation of Poland on behalf of IOM. 147/

202. The General Committee considered and took note of the reports of the 5th and 6th meetings of the Training Panel and of its final report. The Committee endorsed the recommendations of the Panel that the selected candidates be designated by the Preparatory Commission and that the training certificates be issued to them. 148/

203. Further, the General Committee considered the issues relating to the waiver of the annual fixed fee payable by the registered pioneer investors upon entry into force of the Convention and decided to recommend that the fee be waived in a manner consistent with the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. 149/ The Committee also decided to waive the annual fixed fee provided for in resolution II, paragraph 7 (b), as of the date of registration. It also considered the obligation of the three registered pioneer investors - IFREMER/AFERNOD, DORD and Yuzhmorgeologiya - and of their certifying States, France, Japan and the Russian Federation, to carry out the first stage of exploration work, and decided that the performance of the obligation should be deferred. 150/

204. Lastly, the General Committee agreed that each registered pioneer investor shall be provided with a certificate of compliance and there would be annexed to each certificate a revised version of the report on the status of the implementation of the obligations of the registered pioneer investors under resolution II and related understandings. 151/

B. Matters arising from the entry into force of the Convention

205. The Preparatory Commission considered and agreed on the provisional agendas of the first session of the Assembly and the Council of the International Seabed Authority. 152/ During the discussions it was pointed out that account must be taken of the relevant provisions of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, which provided for an interim period when the Authority would be funded by the United Nations and therefore would require the involvement of the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee of the General Assembly. 153/

206. The Preparatory Commission decided to recommend to the General Assembly of the United Nations that it approve the draft budget for the International Seabed Authority for the period 1994-1995. 154/ In doing so, the Commission noted that the draft budget was premised on the assumption that the activities of the Authority in 1994-1995 would relate in large measure to the establishment and internal administration of the Authority. The Commission further noted that, in the preparation of a draft budget for 1996, the Secretary-General of the Authority would need to consider the substantive functions of the Authority in relation to the anticipated level of activities in the international seabed area. 155/

207. It further decided that the first part of the first session of the Assembly, to be devoted to a meeting of a purely ceremonial nature, would be held from 16 to 18 November 1994, and that the second and third parts would be held from 27 February to 17 March 1995 and from 7 to 18 August 1995, respectively. 156/

208. The Preparatory Commission decided to consider as its final report to the Authority the provisional final report which it had adopted earlier, supplemented by any further reports and recommendations which it had adopted. 157/ The Commission decided also to recommend to the Authority that it should take into account the terms of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 in its consideration of the recommendations and the report of the Commission in order to ensure consistency as necessary. 158/

209. With regard to the preparations for the International Tribunal for the Law of the Sea, the Preparatory Commission was not able to consider the draft budget for its first financial period owing to constraints of time. It was decided that it should be submitted to the meeting of the States Parties for its consideration. 159/

210. The Preparatory Commission identified the documentation before it 160/ which would constitute the report for submission to the meeting of the States Parties regarding practical arrangements for the establishment of the Tribunal. 161/

211. Bearing in mind the desire to achieve universal participation in the Convention and the representation of the principal legal systems and equitable

geographic representation in the composition of the Tribunal, the Preparatory Commission further decided to recommend to the States Parties the following procedural arrangements for the organization of the Tribunal:

"(a) An ad hoc meeting of the States Parties to the Convention should be convened as soon as possible 162/ after the date of its entry into force and in any case before the end of 1994 in order to discuss the organization of the Tribunal ...

"(b) The States Parties should, at that meeting, consider the possibility of a one-time deferment of the first election of the members of the Tribunal of a length to be decided by them;

"(c) In the event of a deferment, the meeting of the States Parties should request the Secretary-General of the United Nations to address written invitations to the States Parties to submit their nominations for members of the Tribunal ... at least three months before the date fixed by the ad hoc meeting of States Parties for the first election;

"(d) The Secretary-General should be requested to designate a United Nations staff member as Acting Registrar of the Tribunal before 16 May 1995, charged with making preparations of a practical nature for the organization of the Tribunal, including the establishment of a library;

"(e) States should continue consultations on the organization of the Tribunal." 163/

II. ADVISORY SERVICES

A. Direct advice and assistance to Governments and to intergovernmental organizations

212. While the Convention on the Law of the Sea offers numerous opportunities for States, its uniform and consistent application poses daunting challenges, especially for developing countries, particularly because of its complex and multifaceted nature. The need for advice and assistance is thus evident and has found repeated expression in the resolutions of the General Assembly, in the most recent of which the Assembly "[called] upon the Secretary-General to continue to assist States in the implementation of the Convention and in the development of a consistent and uniform approach to the legal regime thereunder, as well as in their national, subregional and regional efforts towards the full realization of the benefits therefrom". 164/

213. The General Assembly thus not only mandates the Secretary-General to provide advice and assistance to Member States in relation to the Convention, but also gives him the responsibility, in effect, to coordinate and integrate the assistance measures taken by States and international organizations for developing countries. 165/ The Secretary-General has been fulfilling both sets of responsibilities, subject to the constraints of resources. Such responsibilities are expected to expand with the entry into force of the Convention.

214. With respect to inter-organizational cooperation in advice and assistance, the activities of the Division for Ocean Affairs and the Law of the Sea are reported in subsection D and section III below. It should be noted that the provision of advice and assistance to intergovernmental organizations in examining the impact of the entry into force of the Convention on related legal instruments and the activities in their respective areas of competence, as well as, the progressive development of international law, are also important means of assisting States.

215. Assistance to States takes various forms, ranging from providing training to nationals, awarding fellowships and executing technical cooperation field projects, to providing advisory services. The Division's activities in 1994 in the field of training and fellowships are reported in subsections C and D below.

216. In view of the entry into force of the Convention and the adoption of the Agreement relating to the implementation of Part XI of the Convention, the current year witnessed a marked increase in requests from Governments for advice and information, especially regarding the impact of the entry into force of the Convention, the relationship between the Convention and the Agreement, the status of the Agreement, the commencement of functioning of the institutions under the Convention and States' participation therein, as well as on the preparatory steps States should take for their ratification and implementation of the Convention.

217. The Division's capabilities continued to be utilized by States in 1994 for the provision of information and advice on various aspects of the Convention as well as on relevant national legislation. The integrated approach to ocean affairs embodied in the Convention also generated requests in relation to overall marine policy and management requirements.

218. Furthermore, the Division has contributed to a number of specialized conferences and seminars with participants from Governments by presenting papers and providing additional information. 166/

B. Publications

1. Promotional and educational materials, legislative histories and handbooks

219. For promotional and educational purposes, the Division occasionally publishes materials which highlight the significance of the Convention and its major provisions. In December 1993, an English/French bilingual booklet entitled Law and Order in the Oceans/L'ordre juridique sur les mers et les océans was published. Aimed at the general public and distributed free of charge, the booklet contains an explanatory and educational narrative, accompanied by illustrative graphs and colour photographs.

220. With a view to promoting a better understanding of some of the complex provisions of the Convention, the Division publishes legislative histories on selected topics. In 1994, a legislative history on marine scientific research (art. 246 of the Convention) was published, 167/ and three additional

legislative histories dealing with other topics are in the process of being completed. They address: conservation and utilization of the living resources of the exclusive economic zone (arts. 61 and 62); artificial islands, installations and structures (arts. 60, 80, 147 and 258 to 262); and the concept of the common heritage of mankind (arts. 133 to 150 and 311 (6)).

221. To encourage the development of State practice in a manner consistent with the relevant provisions of the Convention and to assist States in their examination of some of the highly technical provisions, the Division has been conducting a series of studies on certain specific subjects and has published them in concise handbooks. The studies are undertaken with the assistance of a representative group of experts on the specific subject-matter under consideration, on the basis of drafts prepared by the Secretariat. In late 1993, the Division published a handbook entitled The Law of the Sea: Definition of the Continental Shelf. An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea. 168/

222. Another booklet being prepared for publication in 1995 is a guide containing a list of "competent" or relevant international organizations, which are considered to be primarily responsible for activities mentioned in specific provisions of the Convention.

2. Bulletins, annual reviews, document compilations, bibliographies and studies on State practice

223. Further issues of the Law of the Sea Bulletin (Nos. 25 and 26) were published in 1994. The Bulletin provides Governments with the most recent legal material relevant to the law of the sea, including, in particular, national legislation, bilateral agreements and multilateral treaties, as well as information on decisions of the International Court of Justice, arbitral tribunals or other dispute settlement procedures. It also gives periodic updates on the status of the Convention. Bulletin No. 25 contains an updated table of claims by coastal States to various maritime zones. With the adoption of the Agreement relating to the implementation of Part XI of the Convention, a new section relating to the status of the Agreement has been introduced. The entire special issue No. IV, to be published by the end of 1994, is devoted to the adoption of the Agreement.

224. The Annual Review of Ocean Affairs: Law and Policy, Main Documents compiles selected documentary materials from international organizations to depict main developments and trends. Because of the numerous subjects and issues which constitute ocean affairs, the ever increasing activity at the global and regional levels and the great volume of documentation which this generates, this publication focuses on the main points of interest to the international community during the year covered. A volume of the Annual Review covering the year 1990 was published in 1994 169/ and another, covering the year 1991, will follow early in 1995.

225. Volume III in the series of publications of documents of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, as well as related press releases and a

cumulative index, covering its meetings in 1985, is expected to be issued before the end of the year, with four more volumes to follow in 1995.

226. Continuing its annual compilation of bibliography on law of the sea and ocean affairs, the Division published in 1994 the ninth volume in this series entitled The Law of the Sea: A Select Bibliography - 1993. 170/ The tenth volume, covering 1994, is under preparation.

227. One practical way of assisting Member States in uniform and consistent application of the Convention and its rational implementation is to study and benefit from existing practice. A volume entitled Practice of States at the Time of Entry into Force of the United Nations Convention on the Law of the Sea, 171/ published in September 1994, provides a comprehensive review of the impact of the Convention on the Law of the Sea on State practice. Expected to be issued by the end of 1994 are: a publication on the Status of the United Nations Convention on the Law of the Sea and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea as of 16 November 1994; a compilation of National Legislation on the Territorial Sea, the Right of Innocent Passage and the Contiguous Zone; and a review of Current Developments in State Practice (No. IV).

C. Fellowships

228. The activities of the Division for Ocean Affairs and the Law of the Sea aimed at promoting the acquisition of additional knowledge of the law of the sea and its wider application have continued by providing training and assistance, inter alia, through the award and implementation of the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea. 172/ The fellowship provides for chosen fellows to pursue postgraduate level research and training in the field of law of the sea, its implementation and related marine affairs. Research and study facilities are provided for the successful fellows at participating institutions for higher education. In addition, an internship period of three months is provided in the Division for Ocean Affairs and the Law of the Sea. 173/

229. The chosen fellow for the seventh annual award, Mrs. Poungthong Onoora from the Department of Fisheries of the Ministry for Agriculture and Cooperatives of Thailand, completed her programme in June 1994. 173/

230. The eighth annual award was made to Mr. Alex Chepsiror, who at the time of his application was with the Ministry of Foreign Affairs, Nairobi, Kenya. Subsequently, however, after arrangements were made for his study/research at a university, he indicated that he was unable to take up the fellowship as a result of his reassignment and work commitments. Owing to time constraints involved in substituting another candidate or making the necessary rearrangements with an educational institution, no award was made in 1994.

231. This situation would, however, to a limited extent alleviate the financial situation of the fellowship fund, which in recent years had been reduced to the level where the capital of the fund, rather than annual income therefrom, was

being consumed. This was contrary to the stated objectives at the time the fund was established.

232. The Advisory Panel, chaired by Professor John Norton Moore of the University of Virginia School of Law, has recommended that every endeavour should be made to accommodate more than one fellow each year, and that efforts should be addressed at securing additional funding for this purpose, including a renewed appeal to Member States.

233. In view of that recommendation, continued efforts have been made to obtain additional funding and assistance. The Secretary-General wishes to appeal for further contributions to the fellowship fund from Member States, philanthropic organizations, international organizations and individuals.

D. Training

1. Action Plan on training in coastal zone management

234. Agenda 21 of UNCED, in chapter 17, stresses the need for coastal States to promote and facilitate human resources development through training and education in integrated coastal and marine management. The United Nations system possesses recognized experience and expertise in marine and coastal affairs. Likewise, there are a number of other organizations that are making valuable efforts in training. Current efforts, however, are dispersed among various organizations, often with differing methodologies, strategies and course designs. In order to overcome possible overlapping and inefficient use of existing human and financial resources, a framework for a new cost-effective strategy and course of action for an integrated programme of training has been established.

235. On the basis of the Consultative Meeting held in June 1993, the Division for Ocean Affairs and the Law of the Sea, with the support of the UNDP Division for Regional and Interregional Programmes, has developed an Action Plan for Human Resources Development and Capacity-Building for the Planning and Management of Coastal and Marine Areas, containing a training strategy, specific action areas and preliminary course proposals (A/48/527, paras. 185-186).

236. The Action Plan (in draft form) was presented at the World Coast Conference, held at Noordwijk, the Netherlands, in November 1993, for comments and support from Governments; it was then finalized taking into account the discussions together with proposals for training courses. In its final form the Action Plan was presented at the Global Conference on the Sustainable Development of Small Island Developing States and submitted to donors for their consideration for funding.

237. The implementation of the specific action areas delineated in the Action Plan is currently focused on two major initiatives, i.e., the establishment of a database for the comparative analysis of training programmes and exchange of training courses and materials, and the launching of the TRAIN-SEA-COAST programme.

2. Database on training programmes

238. The establishment of a database on training programmes has been conceived in response to the urgent need to facilitate the access of institutions and individuals to data on current and planned training activities at the global level. Currently, the number of training courses available is not well known; neither has there been any comparative analysis of training courses on the basis of target groups, methodology, mode of delivery, etc. The United Nations University (UNU) is in the process of establishing such a database. This will be complemented by databases on technical assistance projects and national programmes, which are being developed by FAO and the University of Rhode Island respectively.

3. The TRAIN-SEA-COAST programme

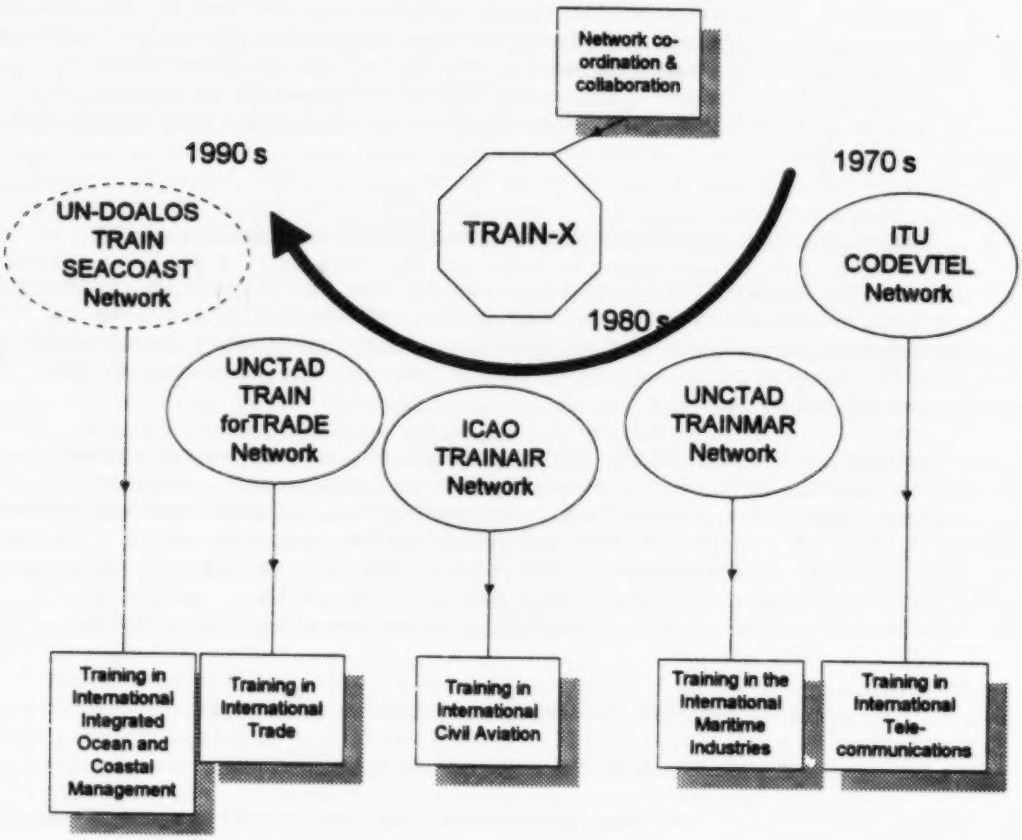
239. The Action Plan calls for the establishment of an international, decentralized programme for the coordinated development and sharing of high-quality standardized course material.

240. For this purpose the Division for Ocean Affairs and the Law of the Sea and the UNDP Division for Regional and Interregional Programmes have launched the TRAIN-SEA-COAST programme, in collaboration with other organizations both within and outside the United Nations system involved in course development. The programme is an outgrowth of the TRAIN-X strategy, the application of which dates back to 1975 when the International Telecommunication Union (ITU) through its COVDETEL programme adopted the methodology as an effort to facilitate global cooperation in training in the field of telecommunications.

241. The TRAIN-SEA-COAST approach, like that of its predecessors - CODEVTEL, TRAINMAR, TRAINAIR AND TRAINFORTRADE (see diagram below) - consists of the creation of training networks made up of interested academic and training institutions from both developing and developed countries willing to participate in the programme and cooperate with each other. The central unit (the Division for Ocean Affairs and the Law of the Sea) provides a link between the training centres through an overall programme management and coordination function in the form of a series of training courses for instructors, course developers and managers. It also provides a training information system for managing the cooperative network as well as backup support facilities to participating centres.

242. Training courses are developed according to a common methodology and to the same standard, which allows quality control and the sharing of information, courses and training material. The programme also makes use of the most modern training techniques, including open learning and computer-assisted learning. The TRAIN-SEA-COAST approach is also instrumental in: assisting local centres in developing their own training solutions to local problems; providing opportunities to centres to develop specialized subject areas; complementing and enriching existing training programmes; and promoting cooperation between centres from developed and developing countries participating in the network.

Evolution of the United Nations system training networks



243. Various academic and training centres have expressed interest in participating in the TRAIN-SEA-COAST Programme. These are, among others, the regional centres of the International Ocean Institute (IOI) in Costa Rica, Fiji, India and Senegal, as well as other centres in Brazil, Thailand and the United Republic of Tanzania. The Division for Ocean Affairs and the Law of the Sea is currently identifying and evaluating, in different countries, potential centres that will join the TRAIN-SEA-COAST network. The first Course Developers Workshop is scheduled for January 1995, with the participation of course developers from all the centres thus identified, with financial assistance by the Government of Japan.

4. Course on integrated management of coastal and marine areas

244. The Division for Ocean Affairs and the Law of the Sea organized, jointly with the Instituto Oceanográfico of the University of São Paulo a course on Integrated Management of Coastal and Marine Areas for Sustainable Development in São Paulo, Brazil, from 9 to 20 May 1994. This was the first course of this type implemented in Latin America.

245. At the request of the Instituto Oceanográfico the course was designed for Brazilian professionals from the Government, the private sector, industry, technical institutions and universities. An appropriate balance was maintained in addressing issues of concern in various parts of the country, as well as in providing international perspectives. The course was both action-oriented and focused on problem-solving, with extensive use of case studies, practical exercises, field visits and a major simulation exercise with role-playing.

E. Law of the Sea Information System and Library

1. Law of the Sea Information System (LOSIS)

246. The computerized Law of the Sea Information System (LOSIS) is composed of a group of databases, each containing information relating to the different aspects of the law of the sea. These are currently being supplemented by the collection of additional marine-related data. 174/

247. LOSIS continues to serve as a source of information and data within the Division and to respond to requests from agencies, Governments and other bodies or meetings, e.g., the Global Conference on the Sustainable Development of Small Island Developing States.

248. A Geographic Information System (GIS) is being investigated for use with the LOSIS databases as well as for the future Commission on the Limits of the Continental Shelf. In order to optimize the usefulness of the GIS over time and to be able to respond to the requirements of the Convention for the use of the best scientific evidence, statistics and data in the exercise of rights and performance of Convention obligations, particular attention will be paid in the design phase of the GIS to, inter alia, other Convention-related uses, the cartographic base, the scales of maps to be produced, the technical support necessary for the operation of the system and the degree of customization

necessary to satisfy the requirements of non-technical parties in a user-friendly manner. It is hoped that the GIS would also be used for field projects, the existing digital databases, digital analysis of satellite-derived images, photographs, maps and video images.

249. The Polymetallic Nodule Deposits Database (POLYDAT), mandated by the Preparatory Commission (A/47/623, para. 203), has been established as a database on the International Seabed Authority's reserved areas in the north-east Pacific Ocean and in the south-central Indian Ocean. The database is being developed using the resource-related data (oceanic features, nodule abundance, metal content, bathymetry, etc.) submitted by the registered pioneer investors during registration and additional data that will be submitted subsequently as part of the fulfilment of their obligations. The database will facilitate the automated processing of data required for resource delineation in the Authority's reserved areas.

250. The Library Bibliographic Information System (LIBRIS) now includes the holdings at the Kingston Law of the Sea Library and is maintained by a full-time librarian at that site. The additional capability has been added with the CD-ROM version of the Aquatic Sciences and Fisheries Abstracts (ASFA). Citations and abstracts for the period from 1982 to the present are now easily accessible within the Division. The system allows for user-friendly multi-level searches by author, subject, geographic area and for on-screen review or printout of an entire search or subset thereof. It is to be linked to the other components of LOSIS so as to allow for cross-database or joint searches. An evaluation of the implications of migrating components of LOSIS to a similarly user-friendly software programme is being undertaken.

251. The Division is in the process of developing a computer-generated information system on national legislation relating to the law of the sea. A pilot project based on texts published in the Law of the Sea Bulletin is already operational and ready to respond to various queries 175/ by permanent and observer missions, United Nations organizations, as well as other intergovernmental and non-governmental bodies.

2. Law of the Sea Library

252. The specialized Law of the Sea and Reference Collection Library located at Headquarters and in Kingston, Jamaica, continues to serve the needs of permanent and observer missions, delegates from Governments, Secretariat staff members and researchers from academic institutions who are interested in the law of the sea and related fields. The library also provides reference materials for consultation in relation to the implementation of the Division's work programme. A computerized database containing the holdings of the library is being maintained to facilitate the retrieval of bibliographical information.

253. The Library compiles annual bibliographies on the law of the sea and ocean affairs (see para. 226 above).

III. COOPERATION WITHIN THE UNITED NATIONS SYSTEM

254. In the marine field, cooperation and coordination within the United Nations system in 1994 have addressed primarily the impact on and the implications for the work programmes of United Nations organizations of the entry into force of the Convention and the requirements for implementing UNCED Agenda 21, particularly its chapter 17 on oceans and coastal areas.

255. As the de facto secretariat of the Convention, the Division advanced the process of coordination, consultation and information exchange in a number of areas directly related to its entry into force, e.g., with IOC and IHO in regard to the establishment of the Commission on the Limits of the Continental Shelf. It has also continued to advise United Nations organizations on the implications of the entry into force of the Convention and on matters related to the interpretation of those provisions which are relevant to the organizations concerned as well as on the development of legal instruments related thereto. This was done particularly through the preparation of legal opinions and comments, as well as attendance at meetings (e.g., the Executive Council of IOC, July; Working Group on Maritime Cooperation established by the Commission on Narcotic Drugs, September; and 17th Consultative Meeting of the Contracting Parties to the London Convention, October).

256. In the first area, the Administrative Committee on Coordination Subcommittee on Oceans and Coastal Areas, established in 1993 on the recommendation of the Inter-Agency Committee on Sustainable Development (IACSD) (see A/48/527, paras. 79-80), held its first session from 19 to 21 April 1994 at FAO headquarters. In addition to United Nations participation through the Division for Ocean Affairs and the Law of the Sea and the Department for Policy Coordination and Sustainable Development, also in attendance were representatives from FAO, the World Meteorological Organization (WMO), IMO, UNESCO, IOC, UNEP, ITU, IAEA, UNDP and the World Bank. 176/

257. Under its terms of reference, the Subcommittee has responsibilities for assisting in the preparation of system-wide reports, inter alia, with respect to the implementation of chapter 17 of Agenda 21, including a consolidated analytical report to support an in-depth review on this subject by the Commission on Sustainable Development at its 1996 session. 177/

258. Although constituted as an expert advisory body within the United Nations system, GESAMP, now sponsored by IMO, FAO, UNESCO-IOC, WMO, the World Health Organization (WHO), IAEA, the United Nations and UNEP, performs an important role in facilitating cooperation and coordination, not only through its expert advisory functions but also through interaction among GESAMP technical secretaries designated by the sponsors from their respective secretariats.

259. In March 1994, the United Nations, through the Division, hosted the twenty-fourth session of GESAMP at Headquarters. 178/ Also, under the special arrangements required for GESAMP working groups, the Division supports the preparation of studies on special issues such as "Anthropogenic influences on sediment discharge to the coastal zone and environmental consequences", 179/ "Biological indicators and their use in the measurement of conditions of the marine environment", "Guidelines for regional marine environmental assessments"

and "Integrated coastal management", on which subject a special task force has now been established.

260. As a sponsor of the joint UN/FAO/IOC Aquatic Sciences and Fisheries Information System (ASFIS), the Division continued to support the maintenance and further development of ASFA, an inter-agency bibliographical information service and the major information module of ASFIS. As an international ASFA input centre, the Division monitors documents and publications relating to the law of the sea and other marine-related activities from which abstracts, bibliographical data and index entries are prepared for inclusion in the ASFA computer-searchable database and CD-ROM and the corresponding ASFA monthly journals.

261. The Division also participates in the annual sessions of the ASFA Advisory Board, together with FAO, UNEP and IOC, as well as 13 national partners and the publisher of ASFA, Cambridge Scientific Abstracts.

Notes

1/ A/48/935, para. 177.

2/ These States are as follows: Angola, Antigua and Barbuda, Australia, Bahamas, Bahrain, Barbados, Belize, Bosnia and Herzegovina, Botswana, Brazil, Cameroon, Cape Verde, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Egypt, Fiji, Gambia, Germany, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Honduras, Iceland, Indonesia, Iraq, Jamaica, Kenya, Kuwait, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Namibia, Nigeria, Oman, Paraguay, Philippines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Senegal, Seychelles, Somalia, Sri Lanka, Sudan, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Uruguay, Yemen, Yugoslavia, Viet Nam, Zaire, Zambia and Zimbabwe. Of these States, the following 14 States have appended declarations to their instruments of ratification: Brazil, Cape Verde, Cuba, Egypt, Guinea-Bissau, Iceland, Kuwait, Malta, Oman, Philippines, Tunisia, United Republic of Tanzania, Yemen and Yugoslavia. (The text of the declarations is reproduced in Law of the Sea Bulletin, No. 25 (June 1994), pp. 11-21).

3/ The text of the draft Agreement and the draft resolution is contained in A/48/950, pp. 8-31, as well as in A/48/L.60 and Add.1.

4/ The text of the Agreement is annexed to resolution 48/263.

5/ The text of the Informal Understanding is contained in A/48/950, annex II.

6/ The 69 States and one entity which had signed the Agreement as at 16 November 1994 are: Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Brazil, Canada, Cape Verde, China, Cyprus, Czech Republic, Denmark, Fiji, Finland, France, Germany, Greece, Grenada, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Lao People's

Democratic Republic, Luxembourg, Malaysia, Maldives, Malta, Mauritania, Micronesia (Federated States of), Mongolia, Morocco, Namibia, Netherlands, New Zealand, Nigeria, Pakistan, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Senegal, Seychelles, South Africa, Slovakia, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Togo, Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Zambia, Zimbabwe and European Community.

7/ The Convention provides in art. 308 (3) that the Assembly shall meet on the date of its entry into force.

8/ IMO document LEG/MISC/1, reproduced in Annual Review of Ocean Affairs: Law and Policy, Main Documents, 1985-1989, vols. I and II, p. 123.

9/ "Mile" means nautical mile throughout this report.

10/ Palau, which had been part of the Trust Territory of the Pacific Islands, became an independent State on 1 October 1994.

11/ Legislative Decree No. 94-13 of 28 May 1994, establishing the general rules relating to fisheries. Text circulated to Permanent Missions of States Members and Observers to the United Nations in circular note LOS/18/94 dated 17 September 1994.

12/ Law No. 60/IV/92. Text reproduced in Law of the Sea Bulletin, No. 26 (November 1994), p. 24.

13/ A/49/287-S/1994/894, annex, chap. I, para. 110.

14/ A/49/229, p. 13.

15/ A/49/479, annex, para. 12.

16/ Communication from the Registry of the International Court of Justice, 9 August 1994.

17/ Land and Maritime Boundary between Cameroon and Nigeria, Order of 16 June 1994, I.C.J. Reports 1994, p. 105.

18/ Maritime Delimitation and Territorial Questions between Qatar and Bahrain, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1994, p. 112.

19/ S/25811, appendix.

20/ United Nations, Treaty Series, vol. 485, p. 321; see also S/22432, annex.

21/ S/25811, appendix, paras. 88-89.

22/ Ibid., para. 90.

23/ Ibid., paras. 94-95.

24/ Ibid., paras. 96-97.

25/ See S/25905, annex.

26/ See S/26006.

27/ For background, see A/47/623, paras. 33-36.

28/ Asahi Shimbun (international satellite edition), 22 April 1994.

29/ The New York Times, 21 December 1993.

30/ See A/49/475, annex.

31/ See A/49/467, annex I, para. 19, and annex III. See also General Assembly resolution 48/23.

32/ See IOC documents IOC/EC-XXVII/3, 8 and 14.

33/ Report of the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 26 April-6 May 1994 (A/CONF.167/9 - United Nations publication, Sales No. 94.I.18), chap. I, resolution 1, annex II.

34/ See the report of the Preliminary Meeting of Experts to Assess the Effectiveness of Regional Seas Agreements (December 1993), in UNEP/LBS/WG.1/1/L.30 and the draft report of the Meeting of Government-designated Experts Focusing on the 1985 Montreal Guidelines (June 1994), in UNEP/MG/IG/1/5.

35/ A draft outline of the programme of action is contained in UNEP/MG/IG/1/5, annex 4.

36/ See E/ECE/1303.

37/ See the report of the meeting in UNEP document (OCA)/MED IG.3/5.

38/ See UNEP, Siren, No. 49, p. 12.

39/ The options for the climate change Convention, including co-hosting by UNDP and UNEP, are discussed in A/AC.237/60.

40/ Parties to the London Convention have expressed concerns as to a more appropriate definition for the purposes of that convention. See the report of the First Meeting of the Amendment Group, LC/AM 1/9.

41/ For example, the effects of adding (and removing) sediment have often been neglected. See GESAMP Reports and Studies, No. 52, which gives a holistic river-basin-scale evaluation of the problem in order to provide the most

appropriate scientific framework for managing the impacts of changing sediment inputs to the coastal zones.

42/ New protocols are expected to be adopted in 1995 for the Mediterranean and the South Pacific.

43/ IMO document MEPC 35/21, para. 20.7.

44/ These amendments were effected by, respectively, resolutions LC 49(16), 50(16) and 51(16). The amendments entered into force on 20 February 1994. The Russian Federation made a declaration of non-acceptance of the amendment on low-level radioactive wastes. Incineration at sea has not taken place since early 1991.

45/ The 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic imposed a 15-year moratorium after which permission to dump would require proof that no better alternative could be found. The moratorium would be extended for a further 10 years if no such proposal were made.

46/ The information from the Russian Federation was distributed under IMO Circular LC 2/Circ.334. IAEA information contained in IMO document LC 17/8.

47/ The report of the second meeting of the Group, held in May 1994, is contained in LC/AM 2/8.

48/ See IMO document LC 17/2/1.

49/ Only 19 States Parties to the London Convention have accepted the 1978 Amendments concerning procedures for the settlement of disputes, whereas 49 acceptances are currently required for entry into force, i.e., two thirds of 73.

50/ Amendment proposals include those based on relevant provisions of the Convention on the Law of the Sea that would impose specific obligations on parties to promote marine scientific research and facilitate its conduct; to observe and assess the effects of human activities on the marine environment; to disseminate information on the results of the research and investigations, on measures taken and on programmes established; and to foster favourable economic and legal conditions for the transfer of technology dealing with the treatment of wastes.

51/ IMO Assembly resolution A.774(18).

52/ See IMO document MEPC 35/21.

53/ The Code is annexed to IMO Assembly resolution A.748(18).

54/ Report of the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 26 April-6 May 1994 (A/CONF.167/9 - United Nations publication, Sales No. 94.I.18), chap. I, resolution 1, annex II, chap. III.B.

55/ Ibid., chap. IV.B.

56/ Ibid., chap. XI.B.

57/ Ibid., para. 87.

58/ See UNEP(OCA)/MED IG.3/INF.6.

59/ See Report of the Second Technical Consultation on Stock Assessment of the Black Sea, Ankara, Turkey, 15-19 February 1993, FAO Fisheries Report, No. 495 (1994).

60/ Ibid., appendix D.

61/ See United Nations press release HE/864, dated 2 September 1994.

62/ See A/49/395.

63/ IMO Assembly resolution A.742(18).

64/ The Paris Memorandum of Understanding has 15 members and 5 cooperating countries. The 1992 Latin American agreement has 10 members and the 1993 Asia-Pacific Memorandum of Understanding has 17.

65/ See report of the 70th session of the Legal Committee, LEG 70/10, paras. 83-94. Discussion was conducted on the basis of LEG 70/7/1, submitted by the United States. The comments of the Division are contained in a note by the IMO Secretariat, LEG 70/7.

66/ See IMO documents C 72/7 and Add.1; C 72/SR.2; and LEG 70/10.

67/ Draft guidelines in IMO document NAV 40/4/1. It may be noted that "Vessel traffic services" will have a new definition: it is a service implemented by a competent authority, designed to improve the safety and efficiency of vessel traffic and to protect the environment.

68/ For discussion on the question at the Third United Nations Conference on the Law of the Sea, see Law of the Sea: Straits Used for International Navigation: Legislative History of Part III of the United Nations Convention on the Law of the Sea (United Nations publications, Sales Nos. E.91.V.14 and E.92.V.14 vols. I and II C).

69/ The rules were recommended by the Subcommittee on Navigation (see document NAV 39/31). The proposal of Turkey was submitted in MSC 63/7/2, preceded by an information note to the 62nd session on navigational and environmental safety in the Straits, MSC 62/INF.10. For the discussion in the Marine Safety Committee, see MSC 63/23, paras. 7.4-7.25, and statements by the Russian Federation and Bulgaria reproduced as annexes 29 and 30.

70/ See document UNEP(OCA)/MED IG.3/5. At that meeting, Turkey stated its concern that the Mediterranean and Black seas should remain separate geographic entities, and that cooperative arrangements, whether under the Barcelona

Convention, the Bern Convention on the Conservation of European Wildlife or the Bonn Convention on the Conservation of Migratory Species of Wild Animals, could not cover the Sea of Marmara or the straits.

71/ Data on the volume of traffic and maritime incidents was submitted by Turkey in MSC 62/INF.10. For example, the increase in major incidents went from 2 in 1981, to some 155 between 1988 and 1992. There was a particularly disastrous accident involving major loss of life in March of this year. Most accidents have involved unpiloted ships.

72/ IMO document LEG/71/12.

73/ IMO document LEG 71/12/1. Turkey has not signed or acceded to the Convention on the Law of the Sea.

74/ The Declaration by Turkey to the Basel Convention conveys its dissatisfaction with the status of transit countries and the notification mechanism in that Convention. See Annual Review of Ocean Affairs: Law and Policy, Main Documents, 1989 (United Nations publication, Sales No. E.93.V.5), p. 186. The relationship between IMO Conventions and instruments and the Basel Convention has been the subject of study pursuant to IMO resolution A.676(16). Also to be noted are the declarations, reservations and objections deposited in relation to the Basel Convention concerning the exercise of the right of innocent passage and freedom of navigation in the exclusive economic zone. Art. 4 (12) of the Basel Convention protects equally the rights and interests of coastal States and the freedom of navigation.

75/ See IMO documents NAV 40/8, 40/8/5 and 40/8/6.

76/ See IOC/EC-XVI/15, p. 3.

77/ For the discussion of the relationship between IOC and the Convention on the Law of the Sea at the July 1994 Executive Council meeting, see documents IOC/EC-XXVII/8 and 15, and IOC/EC-XXVII/INF.6.

78/ FAO press release FAO/3592, dated 14 April 1994.

79/ "Global Fish and Shellfish Production in 1992"; "World Review of High Seas and Highly Migratory Fish Species and Straddling Stocks".

80/ Ibid.

81/ Ibid.

82/ Ibid.

83/ Resolution 15/93 of the Conference, Report of the Conference of FAO (C93/REP), para. 265. Text of Agreement in appendix H to the report. Text also reproduced in International Legal Materials, vol. XXXIII, No. 4 (July 1994), p. 968. For a description of the drafting process of the Agreement, see A/48/527, para. 115.

84/ Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, art. III, paras. 1-3.

85/ Ibid., art. III, paras. 5-7, and art. IV.

86/ Ibid., art. V.

87/ Ibid., art. VI.

88/ Ibid., art. IX.

89/ All these States had signed the Convention as of 31 August 1994. The Convention will enter into force 30 days after the Russian Federation, the United States and at least two other signatories have ratified it.

90/ Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, art. XI, paras. 1 and 2.

91/ Ibid., art. XI, paras. 3 and 5.

92/ Ibid., art. XII, para. 4.

93/ Ibid., art. XI, paras. 4 and 6.

94/ Ibid., art. XII, paras. 3 and 4.

95/ FAO document FI:CCRF/94/2 (June 1994).

96/ Preliminary Draft Code of Conduct for Responsible Fishing (secretariat draft), ibid., introduction and art. 3.

97/ See The New York Times, 27 May 1994; and Japan Times, 28 May 1994.

98/ The line is defined in the new subpara. (b) of para. 7 of the amended Schedule.

99/ Ibid.

100/ Communication from the Secretary of the International Whaling Commission, 6 July 1994.

101/ The full text of the report of 20 May 1994 is reproduced in International Legal Materials, Vol. XXXIII, No. 4 (July 1994), pp. 842-899. The United States announced that it would challenge the Panel's failure to provide a fair hearing and due process, and would ask for a full review of the report, both substantially and procedurally, by the GATT Council, or reconsideration by the Panel in this case. See ibid., p. 839, note. The 1991 Report of the GATT Panel on a previous dispute concerning United States restriction on imports of tuna is reproduced in ibid., vol. XXX (1991), p. 1594.

102/ Report of the GATT Dispute Settlement Panel of 20 May 1994, ibid., paras. 6.1 and 6.2.

103/ Marine Mammal Protection Act of 1972, P.L. 92-522. 86 Stat 1027 (1972).

104/ Ibid., sect. 101 (a).

105/ Report of the GATT Dispute Settlement Panel, op. cit., paras. 3.3, 3.15, 3.52, 3.75, and 3.92.

106/ Ibid., paras. 4.1, 4.7, 4.23, 4.27, and 4.31.

107/ A/47/623, paras. 116-120.

108/ See North Pacific Anadromous Fish Commission, Annual Report 1993 (Vancouver, 1993).

109/ A/CONF.164/L.43, para. 7.

110/ Ibid.

111/ Associated Press dispatch, 10 June 1994; Reuters dispatch, 16 June 1994.

112/ Canadian Press newswire dispatch, 15 July 1994; Business Information Wire dispatch, 22 July 1994.

113/ A/49/381, annex, paras. 8 and 9.

114/ Ibid., appendix.

115/ See United Nations press release FAO/3584, dated 26 November 1993.

116/ Proceedings of the Thirteenth Regular Meeting of the Commission, annexes 14 and 15. ICCAT, Report for Biennial Period, 1992-1993, part II (1993), pp. 119-120.

117/ Proceedings of the Thirteenth Regular Meeting of the Commission, annex 6, ibid., p. 67.

118/ European Information Service, 18 September 1993; Reuters dispatch, 21 May 1994.

119/ A/49/467, annex III, paras. 11, 13-15.

120/ Commission of the European Communities, press release No. 94-422 dated 24 May 1994.

121/ Reuters dispatch, 21 May 1994.

122/ See Report of the Second Technical Consultation on Stock Assessment in the Black Sea, op. cit., note 59, paras. 86-93, and appendix D.

123/ Ibid., para. 85.

124/ A latest development is the Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, adopted on 8 September 1994, which is aimed at reducing and ultimately eliminating illegal international trade in African wildlife.

125/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), chap. II.B.I, para. 91.

126/ Art. 27 deals with criminal jurisdiction on board a foreign ship, and art. 108 requires all States to cooperate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions.

127/ UNDCP/1994/MAR.WP.2.

128/ See E/CN.7/1994/3.

129/ The text of the draft Agreement, which was forwarded to and adopted by the Committee of Ministers, is contained in Council of Europe document CM(94)112, Addendum.

130/ Under the Agreement "preferential jurisdiction" means, in relation to a flag State having concurrent jurisdiction over a relevant offence with another State, the right to exercise its jurisdiction on a priority basis, to the exclusion of the exercise of the other State's jurisdiction over the offence (art. 1 (b)).

131/ The Commission adopted a resolution in May 1994 on criminal justice action to combat the organized smuggling of illegal migrants across national boundaries. See Official Records of the Economic and Social Council, 1994, Supplement No. 11 (E/1994/31), chap. I, sect. A, draft resolution III, and chap. II, para. 58.

132/ BIMCO Bulletin, vol. 89, No. 1 (February 1994).

133/ The Commission's resolution was subsequently adopted by the Economic and Social Council as resolution 1994/14.

134/ See A/49/350, which summarizes the replies received from 26 Governments as well as those received from relevant specialized agencies and intergovernmental organizations on the measures taken to combat the smuggling of aliens.

135/ IMO document MSC 63/17/Add.1.

136/ Ibid.

137/ See also IMO document MSC 62/INF.3.

138/ IMO document MSC 63/INF.15.

139/ This recommendation also addresses a number of incidents labelled as acts of piracy, which were in fact law-enforcement activities carried out by Chinese authorities on board foreign ships engaged in smuggling activities, or were acts carried out by criminals disguised as Chinese Government officials using ships similarly disguised as Government ships. See IMO document MSC 63/INF.15, paras. 4-8 and 10; a note submitted by China (MSC 63/17/6); a report submitted by Hong Kong (MSC 63/17/7); and the report of the 63rd session of the Maritime Safety Committee (MSC 63/23), paras. 17.12 and 17.13).

140/ See IMO documents MSC 63/17/5 and MSC 63/23, para. 17.10.

141/ The Commission shall remain in existence, in accordance with para. 13 of resolution I of the Third United Nations Conference on the Law of the Sea, until the conclusion of the first session of the Assembly of the International Seabed Authority.

142/ LOS/PCN/L.115/Rev.1, paras. 18-19.

143/ These reports are contained, respectively, in LOS/PCN/BUR/R.31, LOS/PCN/BUR/R.34, LOS/PCN/BUR/R.35, LOS/PCN/BUR/R.33, LOS/PCN/BUR/R.30 and LOS/PCN/BUR/R.43.

144/ LOS/PCN/L.114/Rev.1, paras. 7-10.

145/ LOS/PCN/BUR/R.32, para. 57.

146/ LOS/PCN/L.115/Rev.1, paras. 6-8.

147/ Ibid., paras. 11-13.

148/ LOS/PCN/L.114/Rev.1, paras. 20-22, and LOS/PCN/L.115/Rev.1, paras. 27-34.

149/ LOS/PCN/L.115/Rev.1, para. 16.

150/ Ibid., para. 17.

151/ Ibid., paras. 20-21.

152/ Ibid., paras. 22, 23 and 25.

153/ Ibid., para. 24.

154/ The recommendations are contained in LOS/PCN/143.

155/ LOS/PCN/L.115/Rev.1, para. 35.

156/ Ibid., para. 38.

157/ Ibid., para. 44. For the report, see documents LOS/PCN/130 and Add.1, LOS/PCN/WP.52 and Add.1-3, LOS/PCN/SCN.1/1992/CRP.22, LOS/PCN/SCN.2/1992/CRP.6,

LOS/PCN/SCN.3/1992/CRP.17 and LOS/PCN/SCN.3/1993/CRP.17/Add.1. See also LOS/PCN/L.114/Rev.1 and LOS/PCN/L.115/Rev.1.

158/ Ibid., para. 46.

159/ Ibid., para. 40. The draft budget is contained in document LOS/PCN/142.

160/ Contained in LOS/PCN/130.

161/ LOS/PCN/L.115/Rev.1, para. 39.

162/ The ad hoc meeting is now scheduled for 21 and 22 November 1994 at United Nations Headquarters.

163/ LOS/PCN/L.115/Rev.1, para. 43.

164/ General Assembly resolution 48/28, para. 14.

165/ Ibid., para. 17.

166/ In 1994, such conference included: Qatar Conference on the United Nations Decade of International Law, organized by the Government of Qatar and the Asian-African Legal Consultative Committee (AALCC); Panel on the Convention on the Law of the Sea at the Annual Convention of the International Studies Association; United States Coast Guard Commanding Officers Conference, organized by the United States Department of Transportation; Symposium on the Peaceful Management of Transboundary Resources, organized by the International Boundaries Research Unit of the University of Durham; Conference on the Sustainable Development of Coastal and Ocean Areas in South-East Asia, organized by the National University of Singapore, the South-East Asia Programme on Ocean Law, Policy and Management (SEAPOL) and the International Union for Conservation of Nature and Natural Resources - World Conservation Union (IUCN); 28th Annual Conference of the Law of the Sea Institute; and the International Conference on Deep Seabed Mining Policy, organized by the Korea Ocean Research and Development Institute.

167/ United Nations publication, Sales No. E.94.V.9.

168/ United Nations publication, Sales No. E.93.V.16.

169/ United Nations publication, Sales No. E.94.V.1.

170/ United Nations publication, Sales No. E.94.V.10.

171/ United Nations publication, Sales No. E.94.V.13.

172/ The Fellowship was launched in 1980 in accordance with General Assembly resolution 35/116.

173/ The six prior awards were made to candidates from: Chile, Croatia, Nepal, Sao Tome and Principe, Trinidad and Tobago and United Republic of Tanzania.

174/ See A/42/688, A/43/718, A/44/650, A/45/721, A/46/724 and A/47/623 for details of the individual databases.

175/ The information system has a powerful text search feature which allows to find any available information within seconds. It makes it possible, e.g., to find single or multiple words and phrases using standard "Boolean operators", "wild cards", "word stemming" and thesaures. Searches may be performed with respect to all or certain types of legislative texts available.

176/ The report of the meeting of the Subcommittee is contained in ACC/1994/16.

177/ See the report of the ACC Subcommittee on Oceans and Coastal Areas on its First Session, ACC/1994/16 (7 July 1994).

178/ Report of the twenty-fourth session of GESAMP, New York, 21-25 March 1994, GESAMP Reports and Studies, No. 53.

179/ The study has been completed and was published as GESAMP Reports and Studies, No. 52.